香港申訴專員公署

Office of The Ombudsman, Hong Kong



主動調查報告

Direct Investigation Report

漁農自然護理署有關狗主責任的規管工作

Regulatory Work on Dog Keepers' Obligations by Agriculture, Fisheries and Conservation Department

報告完成日期：2021年 12月 21日

Completion Date: 21 December 2021

報告公布日期：2021年 12月 23日

Announcement Date: 23 December 2021

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Executive Summary
Direct Investigation Report

Regulatory Work on Dog Keepers' Obligations by Agriculture, Fisheries and Conservation Department

Introduction

In Hong Kong, the number of pet-keepers is growing and the awareness about care for animals is getting stronger in the community. The Rabies Ordinance was initially enacted to protect public health and safety. Licensing, microchipping and vaccination of dogs, however, are no longer just necessary preventive measures against a rabies outbreak, but also legal obligations for strict compliance imposed on dog keepers in order to protect dog welfare (under the law, "dog keepers" does not simply refer to persons who own dogs or apply for dog licences. Unless where interpretation of the law is involved, people who own or keep dogs are collectively referred to as "dog keepers" in general hereafter).

2. As the Government department responsible for safeguarding animal welfare, the Agriculture, Fisheries and Conservation Department ("AFCD") should on the one hand advise and educate animal keepers to properly take care of and manage their animals, and on the other exercise its statutory powers to take appropriate enforcement action against offenders, so that they would know the consequences of breaking the law.

Our Findings

3. Our direct investigation has identified the following aspects for improvement with respect to AFCD's regulatory work on dog keepers' obligations.

(I) Should Initiate More Proactive Follow-Up Action on Suspected Violations of Law by Dog Keepers

4. AFCD points out the need to strike a balance between protection of dog welfare and stringent enforcement. For instance, the Department would not rashly prosecute dog keepers who failed to license their dogs, with a view to preventing rabies and encouraging those dog keepers to apply for dog licences. We consider that in handling

issues relating to the keeping of and caring for pets, relying merely on draconian punishment is not advisable. Nevertheless, sole reliance on self-discipline of dog keepers is not sufficient either. AFCD should take sterner follow-up action on suspected violations of law by dog keepers to bring home to irresponsible dog keepers the consequences of offences.

5. With respect to cases involving violations of law by dog keepers, AFCD can consider collating and taking reference from experience in handling past cases with a view to reviewing related work arrangements for more rigorous investigation and evidence collection, thereby raising the chance of successful prosecution and achieving deterrent effect on offenders. Besides, AFCD should strive to handle similar cases in a consistent manner to obviate doubts about unfair treatment. In cases where it decides not to prosecute, other administrative measures can be considered in light of the nature and circumstances of individual cases. Such measures include issuance of an advice or a warning letter to the dog keeper concerned, and making a record of the incident to facilitate future follow-up action as necessary.

(II) Should Strictly Require Dog Keepers to Observe Legislative Requirements

(1) <u>Strengthen Follow-up work on cases involving failure to license, vaccinate and microchip a dog in a timely manner</u>

6. At present, AFCD would take actions against dog keepers who have failed to license their dogs or renew the dog licence only when their dogs have not been properly controlled or have bitten people. We consider such enforcement action too passive to deter offenders. AFCD should be more proactive and strictly require dog keepers to observe the legislative requirement and discharge their statutory duty to license their dogs. In addition, AFCD should conduct random dog licence inspections at public places where dogs gather (instead of running licence checks only in response to complaints), and require dog keepers to license their dogs or renew the licence by a specified deadline. Enforcement action should be taken against dog keepers who flout the requirement.

(2) <u>Improve licence renewal reminders to dog keepers</u>

7. Under the prevailing arrangement, AFCD would send licence renewal reminders to dog keepers who apply for a dog licence at an Animal Management Centre (“AMC”) under the Department. Dog keepers who apply for a licence via private

veterinary clinics would receive licence renewal reminders only if they have provided their email address to AFCD at the time of application. We consider that AFCD should make proactive use of the information in the Enhanced Animal Licensing and Enforcement System ("EALES")[1] to send notifications to all dog keepers whose dog licence is about to expire to remind them to renew the licence and re-vaccinate their dogs by a specified date.

(3) Raise dog licensees' awareness of notifying AFCD promptly of change in contact information and identity of dog keeper

8. Our investigation has found a number of instances in which the dog keepers' information in the EALES was inaccurate or outdated. As a result, AFCD could not trace the dog keepers and ascertain their identities, let alone taking further enforcement action against offenders. We consider that AFCD should strictly enforce the requirement that dog licensees should notify the Department of change in address as soon as possible. When processing licence renewal applications, AFCD should also ask the applicants to make a written declaration on the veracity of their contact information, and state clearly the possible legal liability for making false declaration. The electronic platform to be developed by AFCD, in addition to allowing veterinary clinics to directly input licence application information, can also include a function to process changes of licensees and updates on contact information of dog keepers.

(III) Need to Review Current Administrative Arrangements

(1) Set time frame for veterinary clinics to submit licence applications

9. In addition to microchipping and vaccination services, veterinary clinics also submit dog licence applications to AFCD on behalf of dog keepers. Nevertheless, processing time for such applications varies among clinics. We consider that AFCD should formulate relevant guidelines requiring veterinary clinics to submit dog licence applications to AFCD within a specific time frame after microchipping and vaccinating the dogs concerned. Moreover, to ensure the accuracy of applicants' contact information, AFCD should also consider strengthening its liaison with dog keepers. For instance, after completing the processing of an licence application that is submitted via veterinary clinic, AFCD can notify the dog keeper directly of licence issuance by electronic means (such as SMS message to mobile phones or email).

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[1] The EALES contains information such as the names, addresses and telephone numbers of dog keepers, and the rabies vaccination history of dogs.

(2) Enhance arrangements with animal welfare organisations for handling lost dogs

10. Animal welfare organisations ("AWOs") do not have information of registered dog keepers. So, upon catching or receiving a microchipped dog, they can only call AFCD for follow-up action. We opine that there may be omissions in verbal information. To minimise the risk of mistakes, AFCD should strengthen its current communication mechanism with AWOs. For instance, AFCD can allow AWOs to provide information about the dogs they have caught to the Department by electronic communication. Clear records can speed up case processing and facilitate the Department's examination of evidence and follow-up actions in the future.

(3) Refine arrangements for reclaiming lost dogs by dog keepers

11. Our investigation has found that persons other than the registered dog keepers can take away dogs from the AMCs under AFCD. As such, with respect to the arrangements for reclaiming un-microchipped dogs, AFCD should consider requiring the person who comes forward to reclaim a dog to provide more information to confirm his/her keeper status so that dogs would not be mistakenly taken away.

(4) Handle properly cases of change of licensee

12. There are inadequacies in the handling and confirmation of change of dog licensees by AFCD staff. AFCD should handle such applications prudently, step up staff training and remind staff to verify carefully the information provided by both the new and original dog keepers and obtain the written confirmation of both parties in order to protect their interests.

(IV) Need to Improve Efforts in Reducing Dogs Surrendered by Dog Keepers

13. AFCD has been educating the public and advising them against abandoning their pets. Yet, its practice of accepting dogs surrendered by their keepers may provide opportunities for some dog keepers to evade their legal obligations. The Department indicates that it is considering to stop receiving dogs surrendered by keepers without good reasons. We are of the opinion that before implementing such an arrangement, AFCD must first strengthen the regulation of dog keepers' obligations under the law, strictly require dog keepers to license their dogs and provide accurate contact information to the Department, and take follow-up actions against dog keepers in breach

of the law (such as abandoning their dogs). In addition to stepping up publicity, AFCD should consider other measures to prompt those dog keepers intending to give up their dogs to think twice and consider thoroughly whether it is their only option. For instance, AFCD can require that dog keepers must make an appointment in advance for going through the formalities of surrendering a dog.

(V) Should Step Up Publicity on Dog Licence Renewal and Updating of Licensee Information

14. Our investigation has found that some dog keepers do not have sufficient understanding of their legal obligations, such as their duty to renew the dog licence or to notify AFCD of change in contact information and change of licensee in a timely manner. We consider that AFCD should step up public education in this aspect.

Recommendations

15. In light of the above, The Ombudsman has made 11 recommendations to AFCD, as follows:

(1) take appropriate and effective measures to follow up more strictly on suspected violations of law by dog owners and strengthen investigation and evidence collection; in cases where AFCD decides not to prosecute, to consider other administrative measures (such as issuing advices or warning letters to remind dog keepers to observe the statutory requirements) and make relevant records of the cases;

(2) conduct random dog licence inspections at public places where dogs gather, require dog keepers to license their dogs or renew the licence by a specified deadline, and take enforcement action against non-compliant dog keepers;

(3) make use of the information in the EALES to send notifications to dog keepers whose dog licence has expired or is about to expire, requiring them to renew the dog licence by the specified deadline. The notification should state outright the legal consequences of non-compliance. AFCD can also consider revising the dog licence application form to clearly inform applicants that their contact

information would be used for the purpose of sending licence renewal notifications;

(4) require dog licence applicants to make a written declaration at the time of licence renewal applications (including applications submitted via private veterinary clinics) on the veracity of their contact information, and let them understand the legal consequences of making false declaration;

(5) formulate guidelines to require organisations and veterinary clinics that assist in dog licence applications to submit the applications to AFCD within a specific a time frame after microchipping and vaccinating a dog; start as soon as possible the development of an electronic platform that allows veterinary clinics to submit dog licence applications; and for licence applications submitted via private veterinary clinics, consider notifying the dog keepers directly of licence issuance by electronic means;

(6) in the long run consider permitting members of the public to submit electronically applications for changing dog keeper contact information and change of licensee;

(7) strengthen its current communication and liaison mechanism with AWOs, consider allowing AWOs to provide information about the dogs they have caught to AFCD by electronic communication so as to facilitate immediate follow-up by the Department;

(8) with respect to the arrangements for reclaiming un-microchipped dogs, consider requiring the person who comes forward to reclaim a dog to provide more information to confirm his/her keeper status;

(9) handle prudently applications relating to change of licensee, step up staff training and remind staff to verify carefully the information of both the new and original dog keepers and obtain the written confirmation of both parties;

(10) explore more measures to prompt dog keepers intending to give up their dogs to think twice and consider thoroughly whether it is their only option; and

(11) step up publicity and public education on dog keepers’ responsibility to renew dog licence and notify AFCD of change in contact information and change of licensee in a timely manner.

Office of The Ombudsman
December 2021

1

INTRODUCTION

BACKGROUND

1.1 Dogs are popular pets. The Thematic Household Survey conducted by the Census and Statistics Department ("C&SD") between March and June 2018[1] found that some 147,000 families were keeping a total of more than 220,000 pet dogs in Hong Kong. Although the Agriculture, Fisheries and Conservation Department ("AFCD") has been educating the public to take proper care of their dogs, cases of lost or abandoned dogs and dogs causing nuisance are not uncommon.

1.2 AFCD is responsible for animal management and animal welfare, prevention and control of rabies, and regulation of other related matters in accordance with the Rabies Ordinance (Cap. 421) and its subsidiary legislation. For instance, the Department requires dog keepers[2] to license their dogs and have the dogs vaccinated against rabies and microchipped[3] when they reach five months of age (see **Note 2**. Under the law, "dog keepers" does not simply refer to persons who own dogs or apply for dog licences. "Dog keepers' obligations" referred to in this investigation covers the obligations of people who own and keep dogs. Unless where interpretation of the law is involved, these people are collectively referred to as "dog keepers" in general hereafter). Moreover, AFCD imposes constraints on animal keepers by enforcing other animal-related legislation such as the Public Health (Animals and Birds) Ordinance

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1 "Keeping of Dogs and Cats", Thematic Household Survey Report No. 66 published by C&SD on 21 June 2019.

2 Under the Interpretation of the Rabies Ordinance, "keeper" in relation to an animal means a person who:
(a) owns the animal or has it in his possession or custody; or
(b) harbours the animal; or
(c) occupies land or premises on which the animal is usually kept or permitted to remain; or
(d) is the parent or guardian of a person under the age of 16 years who is the keeper of the animal pursuant to paragraph (a), (b) or (c) of this definition,
but does not include a person who has seized or taken possession or custody of an animal under this Ordinance or who has possession or custody of an animal for the purpose of examining or vaccinating it in accordance with this Ordinance.

3 A microchip refers to any device to be implanted in a dog as defined in Schedule 3 to the Rabies Regulation.

(Cap. 139), Dangerous Dogs Regulation (Cap. 167D), Dogs and Cats Ordinance (Cap. 167) and Prevention of Cruelty to Animals Ordinance (Cap. 169) in a bid to safeguard public health and animal welfare.

1.3 Preliminary inquiry by this Office has revealed that most prosecutions instituted by AFCD against dog keepers in the past five years involved the violation of the Rabies Ordinance or Rabies Regulation (Cap. 421A), such as failing to license dogs or exercise proper control over dogs in public places, or dogs causing injury to others. The Office is concerned about the effectiveness and adequacy of AFCD's enforcement and follow-up action against offenders.

1.4 The dog licensing system in Hong Kong originated from the Government's measures to prevent and control rabies with the aim of safeguarding public health. Licences and microchips can help AFCD to confirm the vaccination status of dogs and trace those who abandon their dogs or fail to properly manage and control their dogs. Given the growing public concern over animal welfare in recent years, this Office considers it worthwhile to examine how AFCD can make good use of the existing dog licensing system to raise the effectiveness of regulation of dog keepers.

1.5 Against this background, The Ombudsman decided to initiate a direct investigation on AFCD pursuant to section 7(1)(a)(ii) of The Ombudsman Ordinance (Cap. 397) on 26 November 2020.

SCOPE OF INVESTIGATION

1.6 This direct investigation covers the following aspects:

- the effectiveness of AFCD's enforcement action with respect to the regulation of dog keepers under the Rabies Ordinance and its subsidiary legislation;
- whether AFCD's arrangements for dog keepers to surrender dogs and reclaim lost dogs are appropriate;
- whether AFCD's efforts in using and implementing the dog licensing system is adequate; and
- other areas for improvement and enhancement.

PROCESS OF INVESTIGATION

1.7 On 30 November 2020, we announced the launch of this direct investigation and invited public views on this topic. On 3 November 2021, we issued the draft investigation report to AFCD for comments, and received its reply on 2 December 2021. This final report, incorporating AFCD's comments, was completed on 21 December 2021.

2

ANIMAL MANAGEMENT POLICIES AND MEASURES

ANIMAL MANAGEMENT POLICIES AND POLICY OBJECTIVES

2.1 The Government's animal management policies aim to ensure that people and animals co-exist harmoniously in the community in Hong Kong. To this end, both the well-being of people and the welfare of animals need to be considered and balanced. With growing public concern over animal welfare, the Government would explore from time to time how and if any new methods can be introduced to advance animal welfare.

2.2 AFCD is responsible for regulating animal trading and related commercial activities (such as animal boarding services and animal exhibitions), management of pets and stray animals, prevention of animal cruelty and advancement of animal welfare. With respect to the promotion and management of animal welfare, AFCD has taken the following management measures.

MANAGEMENT MEASURES

Step up Public Education on Responsible Pet Ownership

2.3 The World Organisation for Animal Health ("OIE") points out that promotion of responsible dog ownership could reduce drastically the number of stray dogs and incidences of zoonoses. In this connection, AFCD established in 2010 a task force to devise, implement and reinforce public education campaigns for promoting proper care for animals and responsible pet ownership. The campaigns include putting up advertisements via different channels, organising promotional activities and seminars, carrying out regular village and community publicity programmes, incorporating topics on protection of animal lives in the standard school curriculum, as well as providing information about proper animal care in the AFCD website.

Establish Close Partnership with Animal Welfare Organisations

2.4 AFCD has formed partnership with animal welfare organisations (“AWOs”) to promote services for the furtherance of animal welfare, such as animal adoption services, free neutering services for animals adopted via the partnering AWOs, and organising activities and seminars relating to animal welfare and management. AFCD also invites representatives of AWOs to join the Department’s Animal Welfare Advisory Group[4] and provide views on matters relating to animal welfare, such as stray animal management and public education.

Handle and Prevent Animal Cruelty Behaviours

2.5 For the advancement of animal welfare, the Government had conducted a public consultation on amendments to the Prevention of Cruelty to Animals Ordinance between April and July 2019. A major proposal was to introduce a positive “duty of care”, which means that a person responsible for an animal must take reasonable steps to ensure that the welfare needs of the animal are properly met. A person responsible for an animal includes not only the animal keeper, but also a person in charge of or having custody of the animal, whether for an extended period or temporarily. To complement the introduction of the “duty of care” provisions to the Ordinance and for providing clearer guidance to animal keepers, AFCD will promulgate a Codes of Practice for animals commonly kept in Hong Kong, giving practical guidance on the proper care of animals to meet their welfare needs. The relevant Government departments are now pressing full steam ahead with drafting relevant legislation.

Proper Regulation and Control of Animal Trading

2.6 The Public Health (Animals and Birds) (Trading and Breeding) Regulations (Cap 139B), revised in 2016, stipulates that any person who sells or offers to sell a dog must obtain an Animal Trader Licence or a one-off permit. Besides, any person who keeps dogs for the purpose of breeding and selling/offering to sell must also obtain a Breeder Licence. Pet keepers or traders in breach of the Regulations would be subject to enforcement action by AFCD.

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[4] The Animal Welfare Advisory Group, set up by the Government in 1996, offers advice to the Government on matters relating to animal welfare. The Group and its subcommittees are also involved in the review of animal-related legislation, regulation and control of the pet trade, public education and publicity campaigns.

Proper Management of Stray Animals

2.7 AFCD adopts a range of measures in line with the recommendations of the OIE for the proper management of stray animals, and hence, the effective prevention of a zoonosis outbreak to protect the health and safety of the local population.

2.8 AFCD receives from time to time complaints about stray dogs in relation to, *inter alia*, noise nuisance, environmental hygiene and public safety. To tackle these problems, AFCD would capture and remove the dog(s) in question to allay the nuisance at the source and control the stray dog population. Stray dogs captured would be sent to the Animal Management Centres ("AMCs") of AFCD for detention, observation and follow-up. In the past five years, the number of stray dogs captured following nuisance complaints has dropped more than 60%.

<u>Management Measures Relating to Keeping of Dogs</u>

(1) <u>Prevention and surveillance of rabies</u>

2.9 Rabies transmissions are largely dog-mediated and the fatality rate of rabies in humans is virtually 100%. In order to prevent rabies, dog licencing and vaccination against rabies are mandatory in Hong Kong. Since the 1980's, Hong Kong has not recorded any local cases of human or animal rabies infection.

2.10 The four AMCs under AFCD provide dog keepers with dog licencing and microchipping services for the purpose of preventing rabies transmission. Every year, AFCD carries out publicity and public education campaigns through different channels to remind dog keepers to have their dogs licensed and vaccinated against rabies, and to renew the dog licence and vaccinate their dogs triennially.

(2) <u>Dog identification and registration</u>

2.11 Under the Rabies Regulation, dog keepers must have their dogs licensed, microchipped and vaccinated against rabies when they reach the age of five months. Such requirements not only contribute to the more effective prevention and control of rabies, but also help keepers find their lost dogs more quickly. According to the 2018 C&SD survey, over 90% of domestic dogs (excluding those kept in factories, construction sites and pet shops) have been vaccinated, licensed and microchipped[5].

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[5] The number of dogs kept in a household was provided by the interviewee and not verified. C&SD indicated that the total number of dogs kept might have been underestimated.

(3) *Promote adoption and neutering*

2.12 AFCD advocates neutering of pets to diminish the chance of their spontaneous breeding which may result in an increase of stray animals. The Department also encourages pet keepers to make proper arrangements before eventually giving up their pets. Besides, AFCD provides subsidies to The Society for the Prevention of Cruelty to Animals ("SPCA") for carrying out programmes to control the stray animal population, including community dog programmes, Neuter Vehicle and neutering assistance programmes, etc. This can help reduce dog breeding at the source and minimise the number of dogs that cannot find a home.

2.13 AFCD does not provide animal adoption services to the public direct, but will arrange rehoming for the animals received via the partnering AWOs (currently 17). AFCD is now working with these AWOs to make arrangements for receiving and rehoming animals affected by development projects. It also recommends vacant Government land for lease to the partnering AWOs to operate animal adoption centres. On the other hand, in order to improve the chance of adoption, AFCD plans to provide temperament training to dogs which may be unfit for adoption. Furthermore, dogs with minor illness would be allowed to stay longer at the AMCs for treatment so that they stand a bigger chance of passing the health assessment for rehoming.

3

AFCD's Regulatory Work on Dog Keepers' Obligations

DOG KEEPERS' OBLIGATIONS UNDER THE RABIES ORDINANCE AND RABIES REGULATION

3.1 AFCD pointed out that the Rabies Ordinance was enacted for prevention and control of rabies by requiring dog keepers to have their dogs vaccinated against the disease. Licensing of dogs is required under Part IV of the Rabies Regulation. Enforcement of the dog licensing system pivots around whether dogs have been effectively vaccinated against rabies, while registration of dog keeper information is intended to facilitate investigation and prosecution against dog keepers should they fail to vaccinate their dogs against rabies in a timely manner or control their dogs properly, and in case their dogs have bitten people.

3.2 The following table lists out AFCD's jurisdiction and powers with respect to dog management under the Rabies Ordinance and the Rabies Regulation.

Table 1: AFCD's jurisdiction and powers with respect to dog management under the Rabies Ordinance and the Rabies Regulation

Ordinance/ Regulation	Jurisdiction	Maximum penalty	AFCD's powers
The Rabies Ordinance (Cap 421)			
Section 22(1)	Abandonment of animals (applicable to all animals, including dogs)	A fine of $10,000 and imprisonment for 6 months	To catch, detain or destroy the animal in question; ask the person involved for his/her name, address or other information/ documents; issue written instruction to and instigate prosecution against the keeper
Section 23	Dogs in a public place or in a place from where they can wander into a public place shall **be under control**	A fine of $10,000	
Section 25	Dogs **biting a person**	A fine of $10,000	
The Rabies Regulation (Cap 421A)			
Section 20	Dogs over the age of 5 months shall be **licensed**	A fine of $10,000	To issue dog licence and instigate prosecution
Section 22	A dog licence is valid for three years	--	--
Section 20A	Dog keepers shall notify Director of AFCD of change of address or dog keepership within 5 days of the change	A fine of $5,000	To instigate prosecution
Section 25	Dog keepers to vaccinate their dogs against rabies when they reach five months of age, and re-vaccinate them every three years thereafter	A fine of $10,000	To instigate prosecution

3.3 Generally speaking, dog keepers have the following statutory obligations under the Rabies Ordinance and the Rabies Regulation:

(1) to apply for a valid licence for their dogs and have them microchipped and vaccinated against rabies, renew the dog licences and re-vaccinate the dogs every three years thereafter;

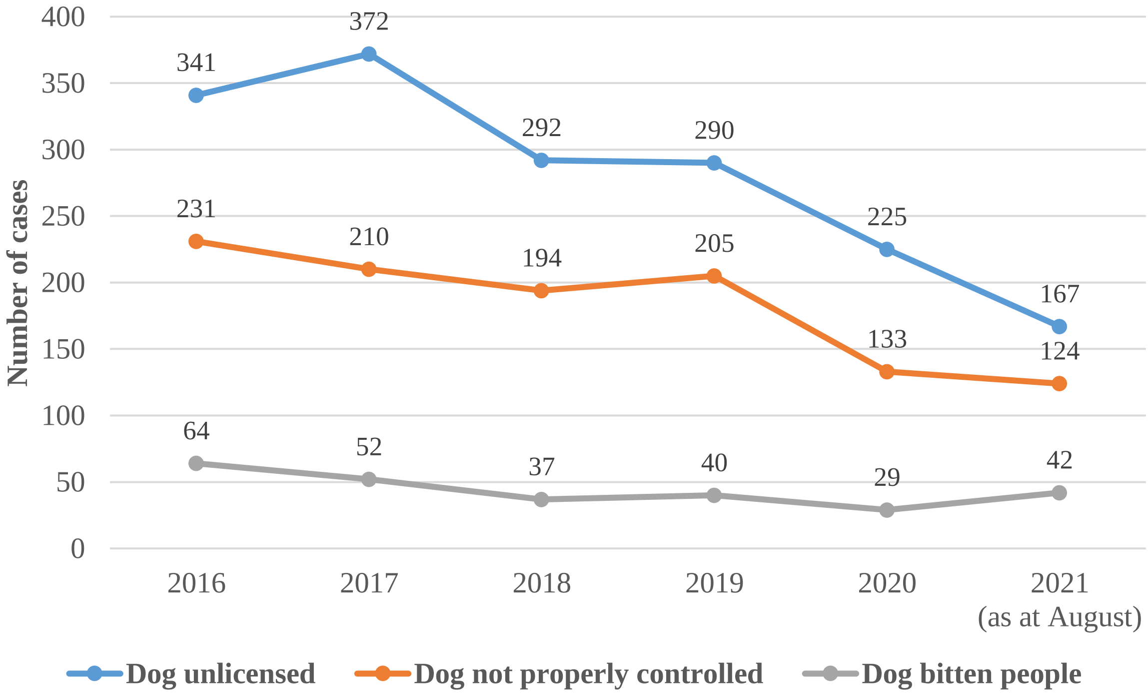
(2) to properly control their dogs lest they get lost or bite people;

(3) to notify AFCD of change in address and change of licensee (i.e. the registered dog keeper in the dog licence); and

(4) not to abandon their dogs

3.4 If dog keepers have allegedly violated the relevant legislation, AFCD would conduct investigation, including interviewing witnesses and the persons involved, taking statements and collecting evidence. Cases with sufficient evidence would be referred to AFCD's Prosecution Section for determining whether to institute prosecution against the persons involved. **Figure 2** shows the number of prosecutions during the past five years against dog keepers for allegedly violating the relevant legislation.

Figure 2: Number of prosecutions by AFCD against dog keepers for allegedly violating the Rabies Ordinance and the Rabies Regulation



3.5 AFCD indicated that during the past five years, it has not instituted any prosecutions against dog keepers for failing to notify the Department of change in address or change of licensee, or for intentionally abandoning their dogs (see **paras. 3.37 and 3.45** for details).

OBLIGATION (1): TO HAVE THEIR DOGS LICENSED, MICROCHIPPED AND VACCINATED

3.6 The Rabies Regulations requires all dogs reaching the age of five months or beyond to be licensed, vaccinated against rabies and microchipped. Re-vaccination and renewal of licence are required at intervals not exceeding three years thereafter. AFCD's dog licensing process includes microchipping dogs for identification. Generally speaking, microchips are valid for life. AFCD explained that the requirements are drawn up based on the recommended time for and validity period of rabies vaccines. Dogs would be re-vaccinated at licence renewal to ensure they have sufficient immunity against rabies so as to avert zoonotic transmission of the disease by dogs.

3.7 Besides, AFCD requires that all dogs to be sold at breeding facilities of licensed dog traders and dogs imported from overseas must be microchipped for identification[6]. Nevertheless, dogs younger than five months old at the time of import or sale need not be vaccinated against rabies or licensed as required by the law. Consequently, if keepers do not comply with the requirement to vaccinate and license their dogs when they reach five months of age and the dogs are somehow caught by AFCD, the Enhanced Animal Licensing and Enforcement System ("EALES")[7] of AFCD would show the remark "dog microchipped, but record of keeper not found". There were respectively 9 and 15 such cases in 2019 and 2020.

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6 AFCD information show that imported cats and dogs must, prior to their arrival in Hong Kong, be implanted with a microchip for identification. The microchip serial number must match that on the health certificate attached. If the microchip implanted in a dog is of a model different from the one used locally, the dog must be re-microchipped upon arrival.

7 The EALES of AFCD was commissioned in January 2018.

Dog Licences and Microchips

3.8 According to AFCD information, dogs as young as three months old can be licensed and vaccinated against rabies. A dog licence contains such information as the name, identity card number, address and contact telephone number of the dog keeper, dates of the dog receiving rabies vaccination, the microchip number and validity period of the licence/vaccination. The table on the back of the licence states clearly that in case of change of address or telephone number of the dog keeper or licensee, the person concerned may fill in that part and send the licence back to AFCD by post. A dog licence sample is at **Annex**.

3.9 The microchip implanted into a dog carries a unique serial number which enables AFCD to trace through EALES the name, address, telephone number of the dog's keeper as well as the vaccination history of the dog. The EALES also contains information on complaint cases received by the AMCs, records about sheltered and lost animals, as well as the veterinary reports and euthanasia records[8] of animals, etc.

Dog Licence Processing

3.10 AFCD is the issuing department of dog licences. In addition to the AMCs under its management, SPCA and authorised private veterinary clinics also provide microchipping and vaccination services, and they would submit licence applications to AFCD on behalf of dog keepers. After microchipping and vaccinating a dog, SPCA or the private veterinary clinic would submit the licence application[9] materials to AFCD by post or in person at an AMC. According to its performance pledge, AFCD would issue the dog licence within 30 working days[10], notify SPCA or the veterinary clinic to collect the licence and pass it to the licensee.

3.11 In order to remind licensees to renew their dog licences and re-vaccinate their dogs, AFCD's computer system would automatically generate an email and a letter two months before licence expiry to all the dog keepers who have applied for a dog

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8 Veterinary surgeons would perform health and temperament assessments for unclaimed dogs. Those that flunk the assessment would be euthanised.

9 Application information shall include the name, identity card number, contact telephone number and address of the dog keeper; as well as the breed, colour, sex, age/date of birth, date of rabies vaccination and the microchip number of the dog and whether it is neutered. The brand and product number of the rabies vaccine used should also be provided

10 In 2020, AFCD met 99.1% of its performance pledge.

licence at an AMC. Dog keepers who have applied for a dog licence and vaccinated their dogs at SPCA and a private veterinary clinic can provide their email addresses to AFCD at the time of application so that they can receive AFCD's email reminders as well. AFCD is now considering sending such reminders by other means, such as by SMS.

3.12 **Figure 3** and **Figure 4** show respectively the number of applications for new dog licences and licence renewal processed by AFCD, SPCA and private veterinary clinics. It can be seen that AFCD has processed more new licence applications than both SPCA and private veterinary clinics; while private veterinary clinics have processed more licence renewal applications. Take 2020 as an example: as much as 61% of all licence renewal applications in the year were processed via private veterinary clinics, much higher than the 33% directly processed by AFCD. According to AFCD, veterinary clinics submitting licence applications on behalf of dog keepers (and then passing the licences to them) can strengthen the liaison between the veterinary surgeons and the keepers and facilitate the formers' follow-up on a dog's health. Dog keepers can also collect the dog licence at the time of consultation. For easier submission of licence applications and to save time, AFCD is now developing an electronic platform so that veterinary clinics can directly input details of licence applications for speedier processing by AFCD.

Figure 3: Number of new dog licence applications

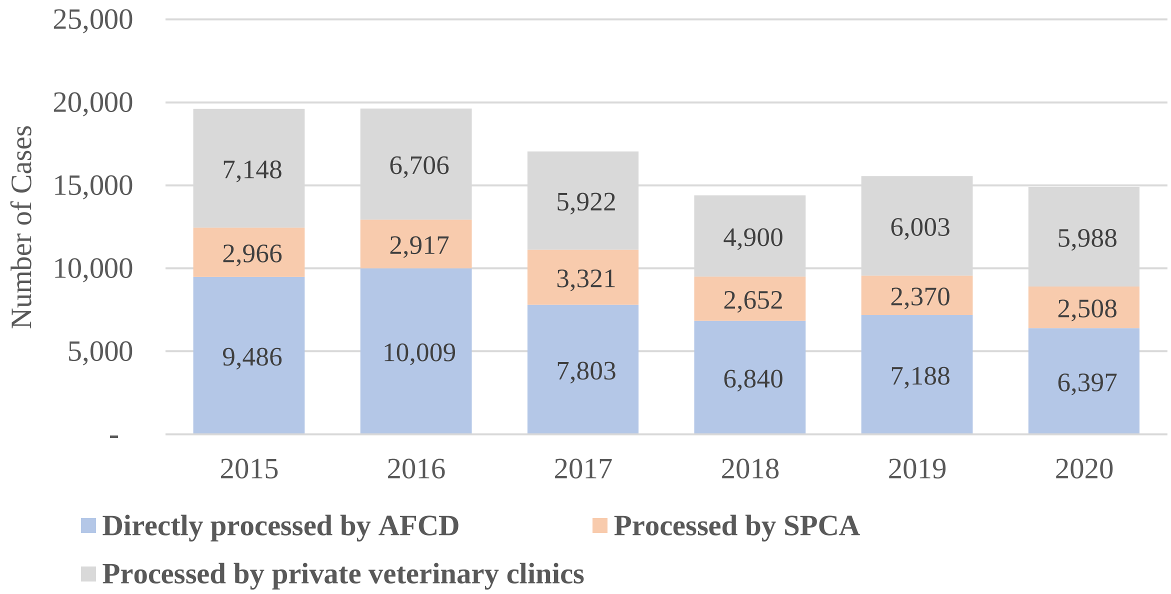
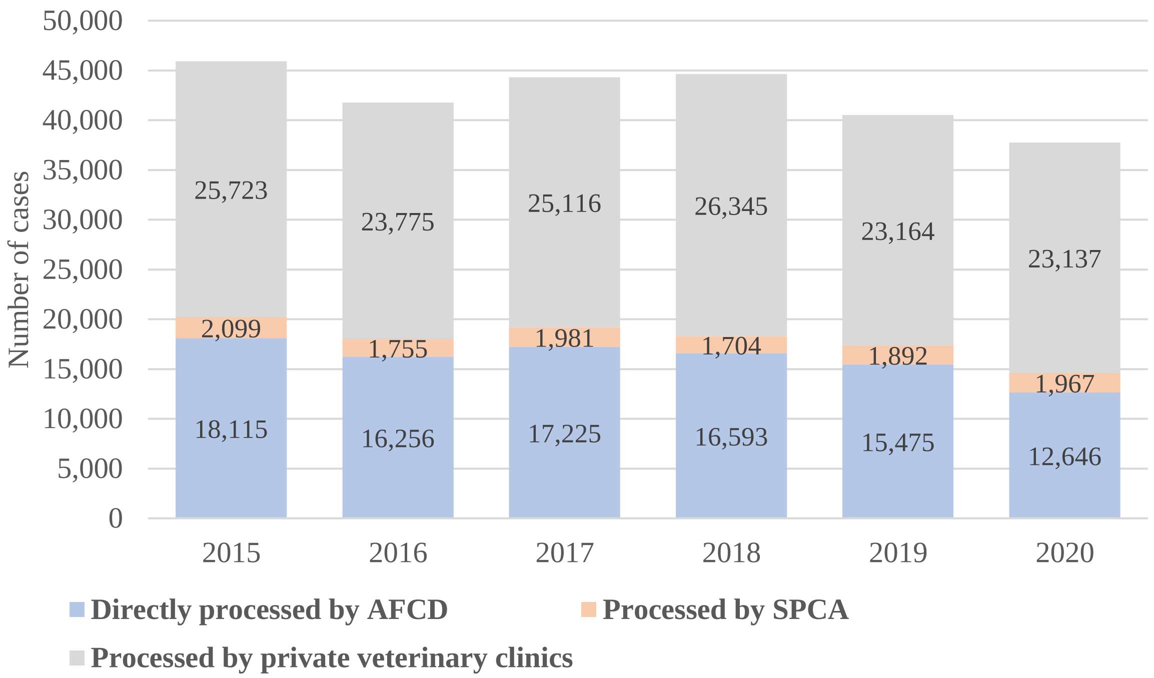


Figure 4: Number of dog licence renewal applications



AFCD's Actions

3.13 The Rabies Ordinance, formulated in 1992 and enacted in 1994, stipulates that dog keepers must license and vaccinate their dog against rabies when the dog reaches the age of five months. The Ordinance was subsequently amended in December 1996 to require that all dogs reaching the age of five months must be microchipped at their first licence application. In view of the three-year validity of dog licences, AFCD had conducted a territory-wide dog licence inspection in December 1999 on streets, in villages and at construction sites. Offenders were prosecuted.

3.14 In order to further publicise the dog licensing and vaccination requirement, AFCD deployed a mobile vaccination team to remote villages regularly to license and vaccinate dogs of the villagers, and distribute leaflets to the persons-in-charge at construction sites to remind them of the requirement. Findings of the C&SD Survey in 2018 showed that over 90% of dogs were licensed (see **para. 2.11**), reflecting a high level of public awareness of the dog licensing and vaccination requirement under the Rabies Ordinance.

3.15 At present, AFCD only deploys staff to conduct dog licensing inspections upon receipt of public complaints about dog nuisance. If a dog keeper is found during

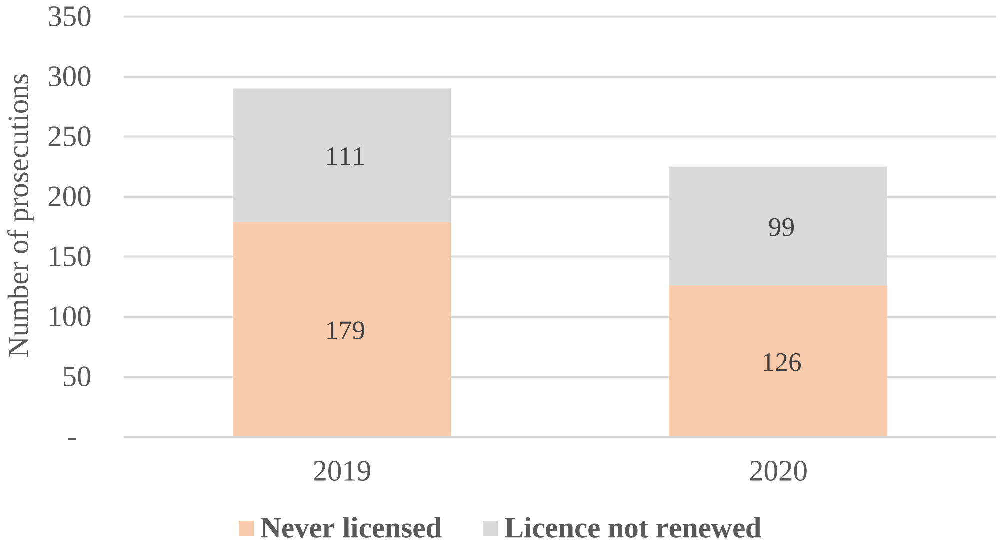
inspection to have failed to license his/her dog or renew the dog licence, AFCD would issue a warning, rather than instituting prosecution, in cases where the public are not affected (e.g. the dog in question is under proper control and has not bitten people) (see **para 3.17**). The dog involved would be vaccinated against rabies and licensed on-site if circumstances permit. Otherwise, the AFCD officer would ask the dog keeper concerned to take action accordingly within seven days.

3.16 AFCD pointed out that some dog keepers, worried about the legal consequences of failure to duly vaccinate their dogs, may refrain from taking their dogs to AFCD for rabies vaccination. This would thwart the Government's efforts to prevent rabies and threaten public health and safety. Having considered the legal advice of the Department of Justice ("DoJ"), AFCD normally would not institute prosecutions when dog keepers, who have failed to license or re-license their dogs, take the dogs to an AMC for vaccination. AFCD stressed that the Rabies Ordinance was enacted to prevent and control rabies. The above practice aims at discouraging keepers from wilfully abandoning their unlicensed dogs or dogs with an expired licence, thereby increasing the risk of rabies transmission.

3.17 On the other hand, to encourage dog keepers to licence their dogs, AFCD has drawn up guidelines on prosecution, specifying that keepers would be prosecuted for failing to obtain or renew the dog licence only when their dogs have bitten people in a public place or are not under proper control in a public place. As such, when dog keepers give away their dogs without a valid license to an AMC, AFCD would not prosecute them for failure to license the dogs.

3.18 **Figure 5** shows the number of prosecutions instituted by AFCD during the past two years against dog keepers who have failed to obtain or renew their dog licence. In 2020, for instance, 56% of the dog keepers prosecuted for failing to obtain a dog licence had never licensed their dogs.

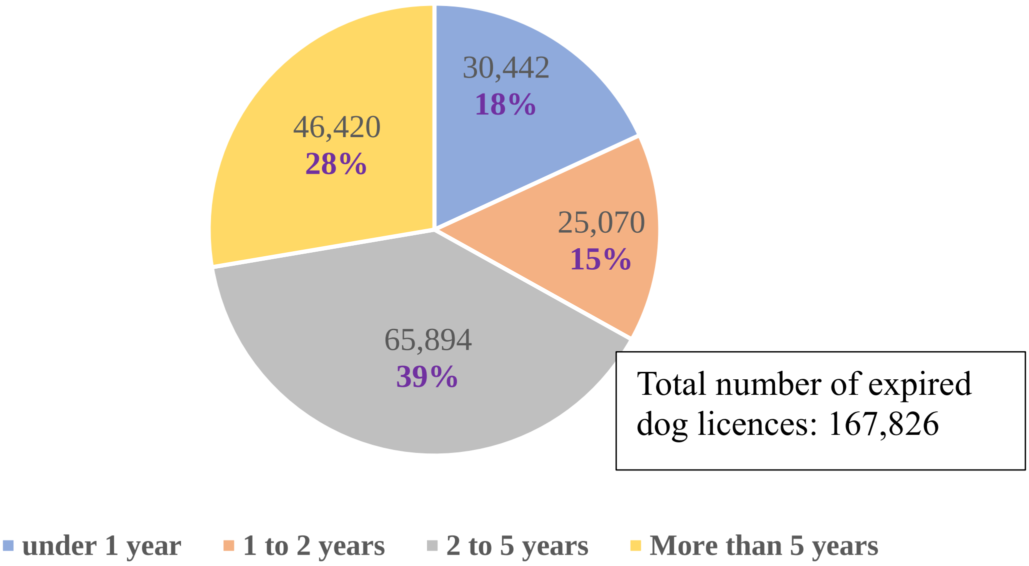
Figure 5：Number of AFCD prosecutions against dog keepers for failing to obtain or renew a dog licence[11]



3.19 AFCD information further shows that of the 637,486 dog licences issued by the Department between 1 January 2011 and 30 June 2021, 167,826 (26%) had already expired. Some dogs might have died but their keepers had not notified AFCD. Among the expired licences yet to be renewed, 28% had expired for over five years (see **Figure 6**).

11 Prior to 2019, AFCD did not keep related statistics in its computer system, and was therefore unable to furnish this Office with the pre-2019 data.

Figure 6: Period of expired dog licenses not renewed (between 1 January 2011 and 30 June 2021)



Note: The above number includes dogs that might have died but their keepers had not notified AFCD accordingly.

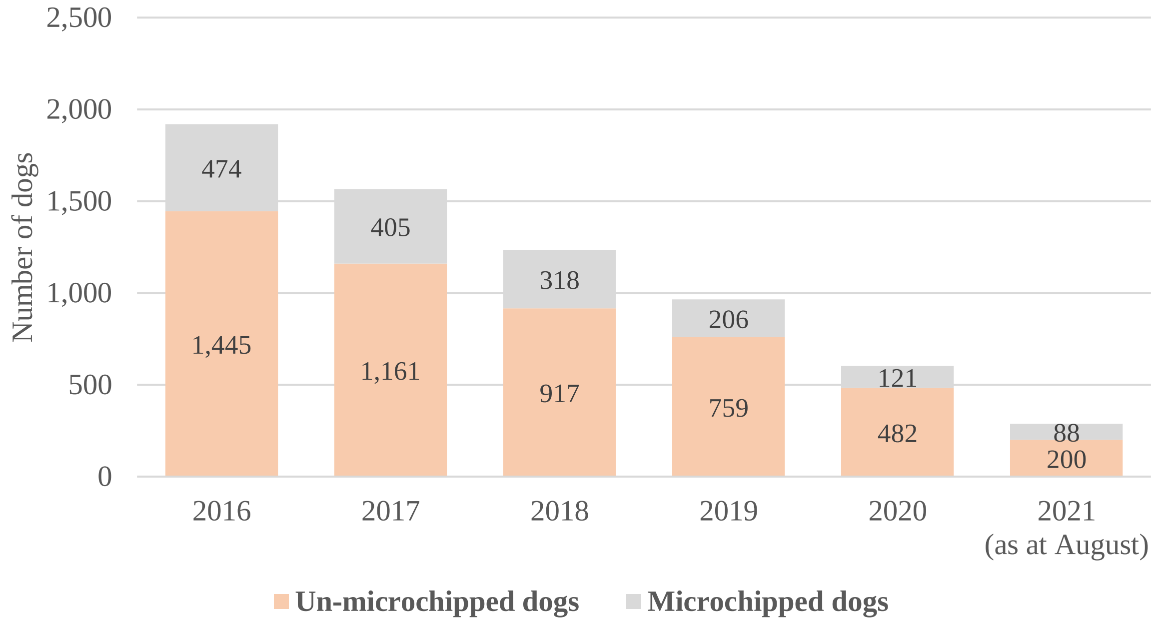
OBLIGATION (2): TO CONTROL THEIR DOGS PROPERLY SO THAT THEY WOULD NOT GET LOST OR BITE PEOPLE

3.20 Dog keepers have a duty to control their dogs properly. Section 23 of the Rabies Ordinance provides that all dogs must be kept on a leash or under proper control in public places. Moreover, the Dangerous Dogs Regulation stipulates that dogs weighing 20 kilograms or above must be held securely on a leash of not more than two metres in length in pubic places (except country parks). Offenders are liable to punishment.

Dogs Getting Lost

3.21 A lot of stray dogs are caught by AFCD every year. Information provided by the Department show that about 20% of the stray dogs caught had been microchipped, meaning that they were either lost dogs once kept or were abandoned by their keepers (see **Figure 7**).

Figure 7: Number of stray dogs caught by AFCD (as at August 2021)



3.22 Although reporting a lost dog is not mandatory under the current legislation, dog keepers have the responsibility to look for their lost dogs, say, by making a report as soon as possible to the Police, AMCs under AFCD, partnering AWOs of AFCD, and private veterinary clinics in their neighbourhood. AFCD pointed out that while tracing lost dogs is not among its core duties, it would render proper assistance. For example, upon receipt of a lost dog report, its staff would check the records of the dogs temporarily kept at the AMCs to look for matches in order to raise the chance of retrieving the dog. AFCD data shows that among those lost dog reports, about ten percent of dog keepers could reunite with their dogs.

AFCD's Action

3.23 Upon receipt of complaints about dogs, AMC staff would conduct a site inspection. If a dog not under proper control is found in public place, it would be captured pursuant to the relevant legislation. Besides, AMC staff would carry out investigation and may prosecute the dog keeper concerned. AFCD information shows that the vast majority of complaints or reports were about dogs causing nuisance. In 2019, for example, 133 complaints or reports involved alleged dog abuse, 8 were about suspected abandonment and 809 were related to failure to properly control a dog.

Captured dog is microchipped

3.24 If a captured dog has been microchipped, AFCD would search the EALES to look for its keeper. If the microchip was distributed by AFCD to SPCA or a private veterinary clinic (see para. **3.10**), the Department would contact them for assistance in tracing the dog keeper. AFCD would also try to contact the keeper by telephone, registered mail and home visits. The law requires payment of a detention fee before the dog keeper can reclaim the dog. Should the keeper be unwilling to reclaim the dog, he/she must, in addition to paying the detention fee, properly fill in and sign an authorisation or notification letter. AFCD would then handle the dog.

3.25 When an AWO receives a microchipped stray dog presented by a member of the public, AFCD would recommend that the dog be transferred to an AMC so that AFCD staff can trace the dog keeper with the information contained in the microchip and notify him/her to reclaim the dog. AWO's Refusal to transfer a lost dog to AFCD, while not against the Rabies Ordinance, would render further follow-up by the Department difficult. The AWO concerned would also risk claims for damages by the original registered keeper.

3.26 **Table 8** shows the number of microchipped dogs captured by AFCD during the past two years and other related data. In 2020, for example, of the 121 microchipped dogs captured by AFCD, 21 had been reported lost by their keepers. For cases in which AFCD had attempted to trace the keepers, 42% were futile. Where the keepers had been successfully traced, prosecution was instigated in 54 cases.

Table 8: Number of microchipped dogs caught by AFCD and results of subsequent actions (see Note 11 under para. 3.18)

Year	Number of microchipped dogs caught (a)	Number of dogs reported lost	Keeper untraceable (b)		Keeper successfully contacted (c)			
					Keeper willing to reclaim dog		Keeper refused to reclaim dog	
			Rehome	Euthanasia	Prose-cution	No prose-cution	Prose-cution	No prose-cution
2019	206	47	34	31	74	57	2	0
			Total: 65		Total: 133			
2020	121	21	33	17	53	16	1	0
			Total: 50		Total: 70			

Note: Some dogs died during detention and some were still waiting for rehoming at AMCs. As a result, the total number of dogs captured by AFCD (i.e. (a)) does not reconcile with the total number of dogs having been disposed of (i.e. (b) + (c)).

Captured dog is not microchipped

3.27 Where a dog captured is not microchipped, the AMC would check the lost reports to look for matches. If a match is found, the AMC would notify the person making the lost report to identify the dog. The dog keeper has to pay the related fees (including fees for detention, vaccination and licensing) before the dog can be reclaimed. Dogs unclaimed would remain at the AMCs. Upon detention for 96 hours[12], unclaimed dogs would be either euthanised or handled in a manner as required in the rehoming procedures.

3.28 **Table 9** shows the number of un-microchipped dogs caught by AFCD during the past two years and other related data. Take 2020 as an example. Of the

12 The four-day detention period originates from section 38 (2)(c) of the Rabies Ordinance: "… the owner of a thing or the keeper… of an animal which is detained under this Ordinance cannot after reasonable inquiry be found or ascertained within 4 days after the commencement of such detention, the Director (of AFCD) may order the forfeiture of the animal or thing, in which case he may either retain it or cause it to be sold, destroyed or otherwise disposed of as he considers appropriate."

482 un-microchipped dogs caught by AFCD, 25 had been reported lost by their keepers. Of the dogs caught, more than 10% had been reclaimed by their keepers, and AFCD instigated prosecution in more than 80% of such cases.

Table 9: Number of un-microchipped dogs caught by AFCD and results of subsequent actions (see Note 11 under para. 3.18)

Year	Number of un-microchipped dogs caught (a)	Number of dogs reported lost	Keeper reclaimed dog (b)		Subsequent action (c)	
			Prosecution	No prosecution	Rehoming	Euthanasia
2019	759	60	75	21	269	360
			Total: 96		Total: 629	
2020	482	25	55	8	152	232
			Total: 63		Total: 384	

Note: Some dogs died during detention and some were still waiting for rehoming at AMCs. As a result, the total number of dogs captured by AFCD (i.e. (a)) does not reconcile with the total number of dogs having been disposed of (i.e. (b) + (c)).

3.29 If there is evidence of the dog keeper's failure to properly control the dog such that it strays away, the keeper may be prosecuted, regardless of whether a lost report has been made or whether the dog has been/would be reclaimed.

Dogs Biting People

3.30 Section 24 (1) of the Rabies Ordinance stipulates that if a dog has bitten someone, its keeper shall notify the Police without delay, and detain the dog in isolation (out of concern for the risk of rabies) pending further instruction from the Police. Offenders are liable to a fine. Section 25 (1) of the Ordinance also states that a dog keeper shall be guilty of a criminal offence if he/she fails to take all reasonable measures to prevent their dogs from biting people.

<u>AFCD's Actions</u>

3.31 Upon the Police's referral of an animal attack, AFCD staff would investigate the incident pursuant to the Rabies Ordinance and the Dangerous Dogs

Regulation. If the stray dog allegedly involved in the incident is found, AFCD shall capture it. The captured dog would be sent to an AMC for rabies observation (normally for a period of seven days). If the dog has been microchipped, AFCD staff would contact its keeper for follow-up action according to the information in the EALES. If the dog is un- microchipped, AFCD staff would check against lost reports to confirm if it has been reported lost. Prosecution would be instituted against the person responsible where evidence is sufficient.

3.32 Upon completion of rabies observation, if the dog that has bitten people has not been reported lost and remains unclaimed, AFCD would conduct further assessment to determine if it is suitable for rehoming. Nevertheless, past incidences show that most dogs that had bitten people flunked the assessment because of their offensive temperament, and were euthanised eventually.

OBLIGATION (3): TO NOTIFY AFCD OF CHANGE IN ADDRESS AND CHANGE OF LINCENSEE

3.33 Microchips can help identify the dog keepers (see **para 3.9**). If the licensee (i.e. the registered dog keeper in the licence) changes his/her address and contact telephone number, or stop being the dog's keeper, he/she has a statutory obligation to notify AFCD of the change (see **Table 1** under **para 3.2**) so that the information can be updated. The licensee can fill in the reverse page of the dog licence (see **Annex**) and return it to AFCD. The updated dog licence with the same validity period would be sent back for free.

3.34 For change of licensee, both the old and new dog keepers shall fill in and sign the form named "Application for Change of Dog Keeper's Information" or the form on the back of the dog licence, then return the application form or the original dog licence to AFCD for processing. Upon verification, AFCD would update the licensee information in the dog licence. AFCD's licence renewal reminders would also ask dog keepers to update the Department of any change in contact information or if their dogs have passed away.

3.35 Generally, a dog licensee must be an individual rather than an organisation or a group. If a partnering AWO receives a dog for special care or adoption arrangement, AFCD may transfer the dog's licence to a staff or a member of the

organisation[13]. When a dog suitable for adoption has found a new home, the AMO shall make arrangement for the adopter to apply for a dog licence or change of licensee. Proper record should also be kept by the AWO for AFCD's inspection.

AFCD's Actions

3.36 During each of the past five years, AFCD processed more than 5,000 applications for change of licensee, including those submitted by partnering AWOs on behalf of adopters. As for applications for change in contact information of licensees, AFCD does not maintain relevant records.

3.37 AFCD pointed out that according to DoJ's prosecution guidelines, AFCD would not instigate prosecution in suspected cases of violation of law unless there is sufficient evidence admissible to the court leading to a reasonable prospect of conviction and unless the prosecution is in the public interest. Since AFCD can hardly ascertain the exact time of the licensee's change of address or cessation of a dog's keepership, and be absolutely sure that the six-month time bar for prosecution[14] has not lapsed, it considers that a reasonable prospect of conviction cannot be established. As such, instead of pressing charges, AFCD normally would only ask the licensees who have not reported a change in contact information or change of licensee to provide updates of such information. This handling method can also dissipate the worries of licensees who, anxious about the legal consequences, would rather choose not to notify AFCD of such changes or even refrain from taking their dogs to AFCD for a re-vaccination overdue.

OBLIGATION (4): NOT TO ABANDON THEIR DOGS

3.38 Section 22 of the Rabies Ordinance stipulates that the keeper of any animal who, without reasonable excuse, abandons that animal commits an offence. AFCD has

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[13] The arrangement does not apply to SPCA because AFCD has, pursuant to section 5 of the Rabies Ordinance, given written authorisation to the staff of SPCA to assist in enforcing section 7 of the Ordinance ("an authorised officer may seize and detain any animal in a public place"). In this connection, the licence of an unlicensed and unvaccinated dog would not be registered under an SPCA staff upon the dog's rescue or collection by SPCA.

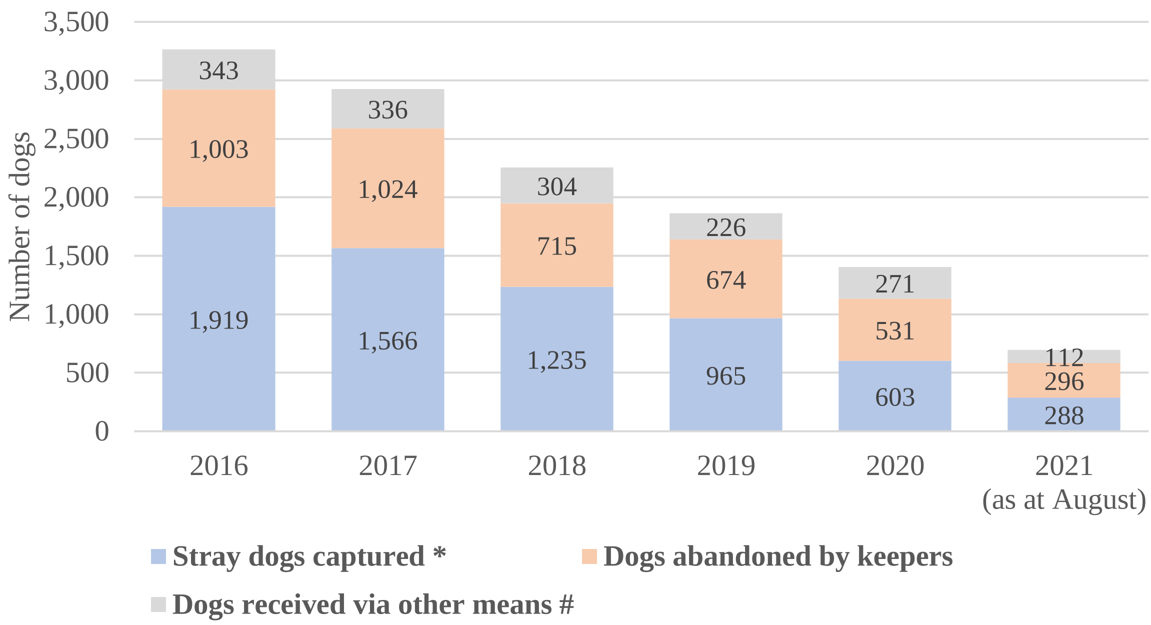
[14] Section 26 of the Magistrates Ordinance (Cap. 227) provides that "in any case of an offence, other than an indictable offence, where no time is limited by any enactment for making any complaint or laying any information in respect of such offence, such complaint shall be made or such information laid within 6 months from the time when the matter of such complaint or information respectively arose."

been educating the public and promoting messages about responsible pet ownership and proper care for animals (see **para. 2.3**). In recent years, the Department has introduced the concept of "duty of care" for animals (see **para. 2.5**), urging members of the public to think twice before keeping a pet, and consider whether they can afford the cost, time and space incurred in keeping the pet, and not to wilfully give it up.

3.39 AFCD also cautions that keepers who want to give up their pet dogs should make proper arrangement in advance. For instance, they can try to give it to a relative, or take it to a partnering AMO for adoption. AFCD would first understand the reason(s) behind the surrender and endeavour to find a feasible solution so that the keeper can keep the dog. In case the keeper eventually decides to give it up because of insurmountable difficulties (eg. they cannot provide proper care for the seriously ill dogs, or the building they live in prohibit residents from keeping dogs), the Department would take over the dog in order to protect its welfare. If euthanasia is the only way out for an old or sick dog, AFCD would not charge its keeper the related administrative fee lest the dog be abandoned on the street because its keeper has financial problems or does not know how to dispose of it properly.

3.40 **Figure 10** shows a continuous drop in the total number of dogs collected by AFCD over the past five years. Nonetheless, among those dogs, the percentage of dogs surrendered by keepers has increased from 31% in 2016 to 38% in 2020.

Figure 10: Number of dogs collected by AFCD
(as at August 2021)



* Including microchipped stray dogs transferred to AFCD by AWOs.
\# Including dogs seized in operations of other enforcement departments.

3.41 When dog keepers take their dogs to an AMC for surrender, the staff would ask them to sign an "Authorisation of Animal Disposal" and fill in a questionnaire to explain the reason(s) for surrendering the dog. The questionnaire lists out the following14 reasons for surrender:

(1)	Screw worm infestation	(8)	Injury
(2)	Sickness	(9)	Behaviour problems
(3)	Keeper incapable of keeping it	(10)	Keeper leaving Hong Kong
(4)	Old age	(11)	Lacking time or space to keep the dog
(5)	Complaints or noise/barking problem	(12)	Keeping too many pets
(6)	Dogs prohibited at keeper's home	(13)	Keeper pregnant/ill/deceased
(7)	Inability to follow instruction	(14)	Others

3.42 The results of a 2018 questionnaire survey showed that the top three reasons for keepers to give up their dogs were: the dog being old, the dog being ill and the keeper being unable to keep the dog. In light of the main reasons for keepers to surrender their dogs, the AFCD website provides related information and suggests solutions.

3.43 **Table 11** shows the number of dogs surrendered by their keepers and received by AFCD during the past two years, the number of licensed dogs among them and other related statistics.

Table 11: Number of dogs surrendered by keepers and received by AFCD and other related statistics

Year	Total number of dogs surrendered by keepers (a)+(b)	Number of surrendered dogs with licence (a)		Number of surrendered dogs without licence (b)
		Licence still valid	Licence expired	
2019	674	239 (36%)	184 (27%)	251 (37%)
2020	531	171 (32%)	129 (24%)	231 (44%)

AFCD's Actions

3.44 Although the Rabies Ordinance prohibits wilful abandonment of animals (see **para. 3.38**), AFCD pointed out that surrendering a dog to the Department because the keeper cannot continue to keep it would not be deemed as "abandonment" under the Ordinance. Besides, if the keeper of a stray dog is successfully traced, and AFCD's investigation confirms that the dog only got lost by accident, such cases would not be considered as "abandonment" either if the keeper reclaims the dog upon paying the detention fee as stipulated in the Ordinance.

3.45 AFCD, during investigation of suspected cases of abandonment, would examine the evidence found in each case, for instance, whether the person who discovers the stray dog has witnessed the course of event and is able to provide further evidence for follow-up by AFCD. Nevertheless, as witness is nowhere to be found in most cases, it would be difficult for the Department to, without any reasonable doubt, invoke section 22 of the Rabies Ordinance to adduce evidence and prosecute anyone for abandoning an animal without reasonable excuse. During the past eight years, no prosecution had been instigated under this provision. On the other hand, AFCD would consider prosecution against the keeper concerned for failure to properly control the dog in a public place such that the dog gets lost and is caught in accordance with section 23 of the Ordinance (see **Figure 2 under para. 3.4**).

3.46 For advancement of animal welfare, the Prevention of Cruelty to Animals Ordinance is now under amendment to impose a positive "duty of care" on those responsible for an animal (see **para. 2.5**). Abandoning an animal would be tantamount to leaving an animal without provision for its welfare needs, and hence considered a contravention of the "duty of care".

3.47 To further dissuade keepers from wilfully abandoning their pets for unjustifiable reasons (such as losing passion for the pet or lacking time to care for it) and to echo AFCD's messages on responsible pet ownership, the Department proposes that it would stop receiving animals abandoned by their keepers without a valid reason (say, keeper being unable to properly care for a seriously ill animal or keeping of pets is prohibited at the keeper's home). The Department is now seeking the views of the Animal Welfare Advisory Group and considering providing stronger support to the partnering AWOs.

4

CASE STUDIES AND PUBLIC VIEWS

CASE STUDIES

4.1 During our investigation, we have scrutinised AFCD's relevant records between September and November 2019. The eight AFCD cases and two complaint cases received by this Office cited in this chapter serve to illustrate how AFCD had handled various cases and followed up on dog keepers' suspected violation of the law.

Case 1: Reclaiming Dog and Change of Licensee (a complaint received by this Office)

4.2 Mr A learned that a stray dog had been captured by AFCD. Not knowing whether the dog had been licensed but worried that it would be euthanised once assessed as unfit for rehoming, Mr A went to the AMC concerned to reclaim the dog and applied to license, microchip and vaccinate the dog in the capacity as its keeper. He was subsequently charged for failure to properly control the dog in a public place. Later on, AFCD found out that the dog was previously owned by another individual. The original keeper agreed to transfer the dog's ownership to Mr A and subsequently signed and submitted an "Application for Change of Dog Keeper's Information" form. AFCD then dropped the charge against Mr A.

4.3 AFCD explained that the dog struggled fiercely when its staff tried to scan for its microchip. The microchip implanted in its body (meaning the dog had a registered keeper), therefore, eluded detection. In addition, although Mr A and the original keeper did not use the same application form for changing the dog licensee, both parties had signed the relevant documents to clearly indicate their intention: the original keeper signed the "Application for Change of Dog Keeper's Information" form, and Mr A signed the Application Form for Dog Licence Registration. Consequently, the application for change of licensee was considered completed.

4.4 We notice in this case that Mr A was not the dog's keeper but managed to reclaim the dog from AFCD. In addition, when he applied for a dog licence, neither AFCD nor he was aware that the dog had a keeper. Upon confirmation of the previous keeper's decision to surrender it, AFCD did not ask Mr A to reaffirm his intention to become its new keeper before proceeding with the formalities for changing the licensee.

Case 2: Change of Licensee (a complaint received by this Office)

4.5 Mr B asked Mr C (person-in-charge of a dog boarding home) to help rehome his dog. Later on, Mr B wanted to reclaim the dog, but Mr C refused. Mr B then contacted AFCD, only to learn that the identity of the keeper in the dog licence had been changed without his consent. Suspecting that an imposter had signed the consent form for transferring the dog licence, Mr B made a report to the Police. Mr B indicated that he had renewed the dog licence and been keeping the new licence all along. However, when Mr C used the original, yet expired, dog licence to apply for change of licensee, AFCD surprisingly accepted and processed his application.

4.6 AFCD explained that an expired yet original dog licence would be accepted for change of dog licensee applications. Upon our intervention, AFCD admitted that after checking the EALES and confirming that the dog did have a valid licence, its staff had failed to take follow-up action when Mr C presented an expired and invalid dog licence. In light of the inadequacy, AFCD subsequently drew up detailed guidelines to remind its staff to check carefully the documents presented by applicants in processing applications for changing of the dog licensee.

Case 3: Refusal to Issue Dog Licence Because of Incomplete Dog Keeper Information

4.7 An AWO took a dog it had caught to AFCD, which subsequently found that the dog had been microchipped. However, no information of the dog's keeper was found in the EALES. Microchip data showed that the dog licence application was submitted via a private veterinary clinic. AFCD then contacted the clinic and learned that the licence application had already been rejected by the Department on grounds of inaccurate identity card information of the keeper. AFCD staff then tried to contact the keeper by telephone, but was unsuccessful. Their attempt to visit the keeper at the address given also failed because the registered address was incorrect. Registered mail to the address was returned as well. Since the dog's keeper cannot be traced, AFCD

made an order to forfeit the dog[15] upon confirmation that no lost report of the dog had been made. Veterinary assessment of the dog's temperament and health condition found the dog fit for rehoming. It was then handed over to an AWO for rehoming arrangement.

4.8 The above case shows that even though a dog has been microchipped and vaccinated, with a dog licence application submitted via a veterinary clinic, AFCD still could not issue a dog licence because of inaccurate keeper information.

Case 4: Microchipped Dog Received but Keeper Claimed Transferral of Ownership

4.9 In October 2019, someone took a stray dog to AFCD, alleging that the dog had been wandering on the street for a year. AFCD examined the dog and confirmed that it had been microchipped but its licence had expired. After two futile visits to the registered address, the AFCD staff left a notice of reclaiming the dog in the relevant mailbox. Later on, the dog keeper notified AFCD in writing that the dog had been transferred to another person in 2013, but did not provide record on the transferral, nor any information of the new keeper.

4.10 AFCD indicated that the original keeper claimed that the dog had been transferred to another person in 2013 and the Department only learned of it in October 2019. Under the Magistrates Ordinance, complaints shall be made or information in respect of any offence be laid within six months from the time when the matter of such complaint or information respectively arose (see **Note 14 in para. 3.37**). Since the veracity of the dog keeper's claim could not be established, AFCD could not instigate prosecution against the person involved. Besides, the dog licence had expired, AFCD could not ascertain the identity of the dog's keeper when the dog was captured. As such, it did not institute prosecution against anyone under the Rabies Regulation.

Case 5: Dog Got Lost and Keeper Claimed It Had Been Transferred

4.11 AFCD caught a microchipped dog in August 2018 and contacted its registered keeper, who then claimed that the dog had been transferred to another person in May that year, but he did not have the contact information of that person. Later on,

[15] If the keeper of a detained microchipped dog remains untraceable after multiple attempts to locate him by AFCD, the Department would order the dog's forfeiture pursuant to section 38 of the Rabies Ordinance. A remark would be made in the EALES that the keeper's status has been nullified.

the keeper signed a statement to give up the dog. AFCD pointed out that since the dog licence was still valid when the dog was captured and the case did not involve change of licensee information, the Department did not prosecute the dog keeper.

4.12 In this case, the dog keeper, claiming that the dog had been transferred to another person, failed to notify AFCD of the transferral. The EALES showed that the dog still belonged to the keeper. Nevertheless, since the identity of the keeper (including the person who owned the dog, or had it in his possession or custody) at the time of the incident could not be confirmed, AFCD decided not to take action against the keeper for failing to properly control the dog (hence losing it), despite the keeper having confirmed in writing to give up the dog.

Case 6: Person Who Found the Dog Unwilling to Testify, AFCD Could Not Prosecute New Keeper

4.13 Someone claimed he saw a dog loitering in a public place and subsequently took it to an AWO, which then transferred the dog to AFCD. Since the dog had been microchipped and came with a valid licence, AFCD contacted its keeper, who claimed he had given the dog to a friend but did not know that he had to go through the formalities with AFCD for change of licensee. Claiming that the dog was lost by the new keeper, who at that time was out of town, he reclaimed the dog on behalf of the new keeper and stated that he would go through the formalities for change of licensee later. Thereafter, AFCD tried to contact the old and new keepers several times without success. Since the person who discovered the dog was not willing to testify at court, AFCD did not instigate prosecution against anyone.

4.14 We notice that in this case, the dog keeper claimed he did not know he had to notify AFCD of change of licensee. However, he failed to go through related formalities even after he became aware of the requirement. AFCD had attempted to contact the person who allegedly was the new keeper in order to confirm the change of licensee, but to no avail. Eventually, the Department could not prosecute the person involved because the old and new keepers were unavailable and because the person who discovered the dog was unwilling to testify at court.

Case 7: Prosecuted Dog Keeper for Failing to Renew Dog Licence

4.15 AFCD received a microchipped dog with an expired licence in a public housing estate. It then contacted its keeper and the person who reported the dog lost.

Later on, the latter reclaimed the dog at an AMC, holding an authorisation signed by the dog's keeper. That person also indicated that the keeper, his relative, had given the dog to him. AFCD then proceeded with the formalities for change of licensee, re-vaccinated the dog and renewed its licence. The new keeper was later prosecuted for failing to renew the dog licence.

4.16 In this case, we noticed that the dog keeper was not aware that he had to go through the formalities for change of licensee and renew the dog licence. Of the two offences, however, AFCD only prosecuted him for failing to renew the dog licence (i.e. to apply for a valid dog licence).

Case 8: Further Action Not Taken Because Dog Keeper Was Untraceable

4.17 A microchipped dog was taken to an AMC by a member of the public. The EALES showed that its licence had expired. AFCD then telephoned the keeper but no one answered. Its officer then went to the registered residential address of the keeper to deliver a notification to reclaim the dog, only to learn that the keeper had already moved. The Department then sent a registered letter to the keeper requiring him to reclaim the dog by the specified date or else the dog would be forfeited. The letter was returned. Eventually, AFCD issued an order to forfeit the dog.

4.18 We noticed that the dog keeper did not notify AFCD of the change in contact information, such that further action could not be taken because he was untraceable.

Case 9: Prosecution Not Instituted Because Dog Keeper Was Untraceable

4.19 Someone took a dog to an AMC and claimed that it belonged to his ex-wife, with whom he already lost contact. Unable to afford the cost of keeping the dog, he signed papers to surrender it to AFCD in the capacity of a non-keeper. AFCD subsequently made several attempts to contact the keeper by telephone and paid visits at her registered address, but to no avail. A registered letter sent to the keeper requesting her to contact the Department was not collected and hence returned. AFCD eventually issued an order to forfeit the dog.

4.20 The dog keeper in question failed to notify AFCD of the change in contact information and change of licensee. AFCD did not take further action because the keeper became untraceable.

Case 10: Prosecution Not Instituted Because Dog Keeper Identity at the Time of Incident Was Uncertain

4.21 AFCD captured two stray dogs on a public beach. One of them had been microchipped. Based on the information in the EALES, AFCD contacted the keeper. Later on, the dog keeper's agent reclaimed the dog at an AMC, but refused to give a witness statement. He then paid the related fees and took away the dog. AFCD subsequently contacted the dog's keeper for further investigation. However, since it could neither confirm the identity of the keeper at the time of the dog's capture, nor prove who had arranged, suffered or permitted the dog to appear in a public place. AFCD could not investigate further and prosecute the dog's keeper due to insufficient evidence.

4.22 In this case, we notice that although the dog was captured by AFCD in a public place, AFCD could not confirm whether the registered keeper and his agent had custody of the dog at the time of the incident. As a result, AFCD considered further legal action not warranted based on its staff's statement alone.

PUBLIC VIEWS

4.23 Some AWOs submitted their views to us in the course of our investigation. Most of them called for more stringent regulation of dog keepers' obligations and heavier penalties for giving up dogs or failing to properly control dogs. We have summarised their views, as follows.

Procedures for Processing Dog Licences

4.24 Some organisations suggested that AFCD enhance the current system for processing licence applications to allow applicants to submit applications or update information online, and to facilitate investigation and enforcement by the Department. Besides, AFCD should regularly issue re-vaccination reminders to all registered dog keepers. Some organisations pointed out that they had handled cases in which the dog keepers seemed to be unaware that their dogs need rabies vaccination every three years. Some keepers even confused vaccination with microchipping.

4.25 Some organisations mentioned the low efficiency of AFCD's dog licensing mechanism. For instance, some private veterinary clinics would submit dog licence application documents to AFCD for processing only months after vaccinating the dogs and receiving the licence applications from their keepers. The organisations, therefore, suggested that AFCD require veterinary clinics to submit application forms within a specified time frame.

4.26 Some organisations opined that vaccination against rabies and dog licensing should be delinked. At present, private veterinary clinics in Hong Kong can only purchase rabies vaccines from AFCD and only licensed dogs can receive vaccination, hence limiting the number of dogs receiving the vaccine. In the long run, all dogs, and even all cats, should be vaccinated against rabies.

Searching for Lost Dogs

4.27 Some organisations pointed out that the EALES is only for AFCD's internal use, so, when an AWO acquires a microchipped dog, it can only telephone AFCD and provide its microchip number for the Department to follow up, including conducting records search and contacting the dog's keeper. Besides, the processing time differs among AMCs.

4.28 Some organisations suggested that AFCD consider setting up a new "lost pet reporting and reclaiming system" or adding such a system to its current website, granting restricted partial access to the EALES to specified AWOs to facilitate their searching for lost dogs and their keepers. In addition, dog keepers can directly report lost dogs via the system to increase their chance of finding their pets.

Surrendering dogs

4.29 Some organisations opined that AFCD should first understand the reasons for keepers to surrender their dogs, and dissuade them from doing so or provide assistance to them depending on individual circumstances. If dog keepers give up their dogs without justifications, the Department can consider imposing deterring penalties. In addition, AFCD should step up publicity and public education to enhance public understanding of dog keepers' obligations. AFCD can also set up professional channels of enquiry for dog keepers' consultation on difficulties in keeping their dogs, so that fewer keepers would give up their pets.

4.30 There were also views that AFCD's prosecution figures cannot reflect the true picture. For instance, with respect to un-microchipped dogs, dog keepers would not be held legally liable so long as they deny being the keepers. Keepers of licensed dogs can also avoid prosecution if they surrender their dogs to AFCD.

5

OUR COMMENTS AND RECOMMENDATIONS

5.1 The Rabies Ordinance was initially enacted to protect public health and safety. As the number of people keeping pets grows, the awareness about care for animals is getting stronger in the community. Licensing, microchipping and vaccination of dogs are no longer just necessary preventive measures against a rabies outbreak, but also legal obligations for strict compliance imposed on dog keepers in order to protect dog welfare.

5.2 As the Government department responsible for animal welfare, AFCD should on the one hand advise and educate animal keepers to properly take care of and manage their animals, and on the other hand exercise its statutory powers to take appropriate enforcement action against offenders, so that they would know the consequences of breaking the law.

5.3 Our direct investigation has identified the following aspects for improvement with respect to AFCD's regulatory work on dog keepers' obligations under the Rabies Ordinance and its subsidiary legislation.

(I) SHOULD INITIATE MORE PROACTIVE FOLLOW-UP ACTION ON SUSPECTED VIOLATIONS OF LAW BY DOG KEEPERS

5.4 We understand that AFCD considers prosecution against dog keepers who have broken the law on a case-by-case basis. We would not comment on AFCD's individual prosecution decisions. Rather, our probe focuses on how AFCD had followed up on cases of suspected offences and violations. The Department pointed out the need to strike a balance between protection of dog welfare and stringent enforcement. For instance, the Department would not rashly prosecute dog keepers who failed to license their dogs, with a view to preventing rabies and encouraging those dog keepers to apply for dog licences (see **paras. 3.16 and 3.17**). We consider that in

handling issues relating to the keeping of and caring for pets, relying merely on draconian punishment is not advisable. Nevertheless, sole reliance on encouragement and self-discipline of dog keepers is not sufficient either. AFCD must re-examine, and improve, its current approach to case follow-up.

5.5 This Office is of the view that in order to further protect dog welfare, AFCD should take sterner follow-up actions on suspected violations of law by dog keepers to bring home to irresponsible dog keepers the consequences of offences. The cases in **Chapter 4** point to room for improvement in AFCD's handling of some cases.

5.6 With respect to cases involving violations of law by dog keepers, AFCD should not only conduct investigation against the persons involved using the licence information, but also proactively gather evidence about the cases. We notice in **Cases 4 and 5** that even though the EALES showed that a certain person was the dog licensee, so long as that person claimed that the dog had already been transferred to someone else, or had been given up, he/she could escape prosecution because AFCD was unable to confirm the identity of the keeper (including who owned, or had in his possession or custody of the dog) at the time of the incident (see **Note 2** under **para. 1.2**). Likewise, in **Case 10**, after catching a microchipped lost dog in a public place, AFCD should have been able to trace the keeper with information in the EALES, conduct investigation and prosecute him. Nevertheless, its hands were tied due to insufficient evidence because the identity of the dog's custodian at the time of the incident could not be established. The dogs involved in both **Cases 4 and 7** did not have a valid licence. In **Case 4**, neither the original dog keeper (who claimed to have transferred the dog to another person) nor the new keeper was prosecuted because AFCD could not confirm who the new licensee was. Nevertheless, the new dog keeper in **Case 7** was prosecuted by the Department. Such examples may give an impression that AFCD's enforcement is lax or inconsistent.

5.7 We are of the view that AFCD can consider collating and taking reference from experience in handling past cases with a view to reviewing related work arrangements for more rigorous investigation and evidence collection, thereby raising the chance of successful prosecution and achieving deterrent effect on offenders. Besides, AFCD should strive to handle similar cases in a consistent manner to obviate doubts about unfair treatment.

5.8 In cases where it decides not to prosecute, other administrative measures can be considered in light of the nature and circumstances of individual cases. Such

measures include issuance of an advice or a warning letter to the dog keeper concerned, reminding him/her to abide by the statutory requirements, and making a record of the incident to facilitate future follow-up action as necessary.

(II) SHOULD STRICTLY REQUIRE DOG KEEPERS TO OBSERVE LEGISLATIVE REQUIREMENTS

(1) Strengthen Follow-up work on Cases Involving Failure to License, Microchip and Vaccinate A Dog in a Timely Manner

5.9 AFCD's policies and measures with respect to animal management emphasise proper management and control of stray dogs. The number of stray dogs caught by the Department each year has been on the decrease. However, more than 70% of the stray dogs caught had not been microchipped, meaning that they were neither licensed nor vaccinated (see **Figure 7** under **para. 3.21**). While most of these dogs might be feral, still, about 10% of these un-microchipped dogs were subsequently reclaimed by their keepers (see **Table 9** under **para. 3.28**). In other words, these dog keepers had never microchipped and licensed their dogs. Besides, over 60% of the abandoned dogs were without a valid licence (see **Table 11** under **para. 3.43**). In fact, the cases we have studied reveal that some dog keepers who abandoned their dogs had never applied for a dog licence, but could just get away without any legal consequences.

5.10 Regarding Government data, although the C&SD statistics show that over 90% of dogs had been licensed, vaccinated and microchipped, the statistics only covered domestic dogs. Dogs kept in factories, construction sites and pet shops were not included. The number of dogs being kept might, therefore, be underestimated (see **para. 2.11**). AFCD indicated that it would not prosecute keepers who take their dogs to an AMC for vaccination or surrender. Keepers would be prosecuted for not licensing their dogs only when their dogs have not been properly controlled (such that they get lost and are caught) or have bitten people in a public place (see **paras. 3.16 and 3.17**). As such, the number of AFCD prosecutions cannot reflect the actual situation on dog keepers' failure to license their dogs (see **Figure 2** under **para. 3.4**).

5.11 We notice that for incidents involving dog keepers' violations of law such as failure to properly control their dogs, abandoning their dogs, or their dogs having bitten people, AFCD's investigations relied largely on referrals by related organisations or reports by members of the public. In the course of investigation, it would check

whether or not the dog in question had a valid licence (see **para. 3.15**). In other words, AFCD would take follow-up actions against dog keepers who have not licensed their dogs or renewed the dog licence only when their dogs have not been properly controlled or have bitten people (see **paras. 3.16 and 3.17**). We consider such enforcement action too passive to deter offenders.

5.12 We are of the view that AFCD should be more proactive and strictly require dog keepers to observe the legislative requirement and discharge their statutory duty to license their dogs. Information show that AFCD had conducted a territory-wide dog licence inspection in 1999 and prosecuted dog keepers who had failed to microchip their dogs (see **para. 3.13**). Since there are still dog keepers who have yet to license their dogs (see **para. 5.9**) and about 20% of dog licences have already expired (see **para. 3.19**), we consider that AFCD should conduct random dog licence inspections (instead of running licence checks only in response to complaints), issue reminders to dog keepers and launch publicity and public education campaigns (see **paras. 5.18 and 5.36**) to require dog keepers to license their dogs or renew the licence by a specified deadline. Enforcement action should be taken against offenders. In fact, random dog licence inspections need not be territory-wide every time; instead, they can be carried out at public places where dogs gather (such as dog gardens). Besides, the inspections can be conducted in selected districts or on a sampling basis taking into account such factors as resource availability and effectiveness of past actions, etc.

5.13 Furthermore, according to AFCD information, all dogs on sale at licensed premises or imported from overseas must be microchipped, but dogs younger than five months of age need not be vaccinated and licensed (see **para. 3.7**). That is to say, not all microchipped dogs are licensed (**Case 3** indicates that a dog licence application may be refused because of inaccurate keeper information). Since the EALES does not contain information of the keepers of such dogs, AFCD can in no way ascertain whether the dogs are licensed and vaccinated eventually. The situation well demonstrates why dog licence inspections are necessary.

(2) Improve Licence Renewal Reminders to Dog Keepers

5.14 AFCD pointed out that over 90% of dogs had been licensed according to the C&SD survey (see **para. 2.11**). However, not all dog licences are still valid. **Figure 6** (see **para. 3.19**) shows that between 1 January 2011 and 30 June 2021 a staggering 160,000 dog licences expired, and over 50% of them for two years or more. Although some of the dogs involved might have died, the figures do reflect that a certain

proportion of dog keepers did not renew their dog licences. As can be seen from our case studies (see **Case 7**) and the views submitted by some AWOs, some dog keepers just had no idea about the licence renewal requirement (see **paras. 4.16 and 4.24**).

5.15 Currently, AFCD would send licence renewal reminders to dog keepers who have applied for a dog licence at an AMC. Whether those keepers who have applied via SPCA or private veterinary clinics would receive the reminders depends on whether they have provided their email address to AFCD (see **para. 3.11**). Since the reminder service is provided on a voluntary basis, it does not cover all dog keepers who apply for a dog licence.

5.16 **Figure 4** under **para. 3.12** shows the data about dog licence renewal. In 2020, for example, AFCD had processed 30,000-plus dog licence renewal applications. Sixty-one percent of the applications were submitted via private veterinary clinics, exceeding those submitted to AFCD direct. If AFCD relies on dog keepers' consent obtained via veterinary clinics in sending email reminders on licence renewal, it would put itself in a passive position, and many dog keepers would not be able to receive such email reminders.

5.17 Undoubtedly, the legal obligation to renew dog licences and re-vaccinate dogs rests with the dog keepers. However, as committed as AFCD is to the prevention and control of rabies, it should make use of the dog keeper information in the EALES and take the initiative to send a letter or an electronic message to all dog keepers whose dog licence is about to expire to remind them of their obligation to renew the license and re-vaccinate their dogs by a specified date. The notification should include a stern warning on the legal consequences of non-compliance and state the maximum penalty. For more thorough implementation, AFCD should consider revising the licence application form to state clearly that applicants' contact information would be used for the purpose of sending out licence renewal notifications.

5.18 Furthermore, we opine that before conducting random dog licence inspections (see **para. 5.12**), AFCD can consider sending an advance notice to dog keepers with an expired dog licence, demanding them to renew it as soon as possible. This can be done in phases if a huge number of dogs are involved.

(3) Raise Dog Licensees' Awareness of Notifying AFCD Promptly of Change in Contact Information and Identity of Dog Keeper

5.19 The law stipulates that dog licensees should notify AFCD of any change in contact information and change of licensee within five days of the change (see **Table 1** under **para. 3.2**). Nevertheless, there are still instances of inaccurate or outdated dog keeper information in the EALES. **Table 8** under **paragraph 3.26** shows that in 2020, even among the microchipped dogs caught by AFCD, some 40% of their keepers were untraceable, meaning that the keepers' contact details were either inaccurate or outdated. In **Cases 8** and **9**, AFCD had tried different ways to contact the dog keepers without success. Evidently, failure by registered dog keepers to notify AFCD of change in contact information would render AFCD's tracing efforts laborious and further action against offenders impossible. On the other hand, **Cases 4, 5, 6, 7** and **9** show that it is not uncommon that dog keepers did not notify AFCD of change of licensee. Some of the changes dated back many years and AFCD only learned of them when it received the dogs concerned.

5.20 AFCD's requirement of microchipping dogs for registration purpose can help keepers reunite with their lost dogs. More importantly, the registration details can facilitate investigations and further action by AFCD against violations of law by dog keepers (see **para. 3.1**). If information about dogs and their keepers in the EALES is outdated or inaccurate, AFCD can hardly trace the keepers and ascertain their identities, let alone taking further enforcement action against offenders.

5.21 We consider that AFCD should strictly enforce the requirement that dog licensees should notify the Department of change in address as soon as possible, and state explicitly they would be held liable for non-compliance.

5.22 In addition, AFCD should initiate more proactive steps to ensure that dog keepers provide accurate contact information, say, by asking them to make a written declaration on the veracity of their contact information when they apply for licence renewal, and state clearly the possible legal liability for making false declaration. Where necessary, AFCD can ask applicants to produce proof of new address for verification. Furthermore, AFCD should explore other more convenient ways for dog keepers to notify it directly of change in address or change of licensee. For example, it can consider accepting electronic submission of information, or allowing submissions through the Government's "iAM Smart" mobile app. To make things easier for dog keepers, the electronic platform to be set up by AFCD (see **para. 3.12**), in addition to

processing dog licence applications, can also include a function to process changes of licensees and updates on contact information of dog keepers.

(III) NEED TO REVIEW CURRENT ADMINISTRATIVE ARRANGEMENTS

(1) Set Time Frame for Veterinary Clinics to Submit Licence Applications

5.23 Dog keepers can apply for dog licences directly at the AMCs under AFCD, or via SPCA and private veterinary clinics, which also provide microchipping and vaccination services (see **para. 3.10**). Nevertheless, information on the Internet show that some private veterinary clinics, in a bid to save time and cost, would process several dog licence applications in a bundle. As a result, licence applications often take three to five months to reach AFCD. For instance, we notice that in 2021, the Inquiry Committee under the Veterinary Surgeons Board of Hong Kong had ruled that a veterinary surgeon was guilty of the disciplinary offence of misconduct or neglect in a professional respect. One offence of misconduct was that the surgeon submitted a dog licence application to AFCD as late as ten months after vaccinating the dog.

5.24 Although processing time of licence applications differs among private veterinary clinics, AFCD has not drawn up any related rules or requirements. If a veterinary clinic has delayed in submitting a dog licence application to AFCD and the dog concerned gets lost in the interim, the dog's keeper may be prosecuted for not holding a valid dog licence. Besides, the registration details about dog keepers in the EALES would be used for investigations and prosecution against keepers suspected of breaching the law (see **para. 3.1**). It is, therefore, imperative that AFCD ensures the timely processing of dog licence applications.

5.25 AFCD undertakes to issue a dog licence and notify the private veterinary clinic concerned to collect it within 30 working days of receiving the application documents; yet, we consider that relevant guidelines should be formulated to avoid delay by clinics in processing licence applications. The guidelines should specify a time frame within which an organisation/clinic must submit the dog licence application to AFCD after microchipping and vaccinating a dog. Furthermore, AFCD should commence the development of an electronic platform (see **para. 3.12**) as soon as possible to help expedite the processing of dog licence applications.

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5.26 Moreover, to ensure the accuracy of licence applicants' contact information, AFCD should also consider strengthening its liaison with dog keepers. For instance, after completing the processing of a licence application submitted via a veterinary clinic, AFCD can notify the dog keeper directly of licence issuance by electronic means (such as SMS message to mobile phone or email). This can serve to remind dog keepers to collect the licence promptly and at the same time verify the contact details provided by applicants, thereby preventing incidents of inaccurate information such as **Case 3**.

(2) Enhance Arrangements with AWOs for Handling Lost Dogs

5.27 AWOs do not have information of registered dog keepers. So, upon catching or receiving a dog of dubious origin, they can only call AFCD to trace the keeper or take follow-up action. Under the current arrangements, if a stray dog caught or received by an AWO has been microchipped, AFCD would suggest that the dog be handed over to an AMC (see **para. 3.25**). Although it is not an offence for AWOs to refuse handing over a dog, the fact that a microchipped dog should have got lost may be related to the keeper's failure to properly control it or abandonment by the keeper. In this light, if AFCD suspects that a certain case may involve violations of law by the dog keeper, it should ask the AWO to hand over the dog promptly to facilitate its enforcement action.

5.28 On the other hand, some AWOs may telephone AFCD for follow-up action after catching a microchipped dog (see **para. 4.27**). We opine that there may be omissions in verbal information. To minimise the occurrence of mistakes, AFCD should strengthen its current communication mechanism with AWOs. For instance, AFCD can allow them to provide information about the dogs they have caught to the Department by electronic communication. Clear records can speed up case processing and facilitate the Department's examination of evidence and follow-up actions in the future.

(3) Refine Arrangements for Reclaiming Lost Dogs by Dog Keepers

5.29 At present, when a dog keeper comes forward to reclaim an un-microchipped lost dog, the AMC concerned would look for a match by cross-checking the dog's information with the records of dogs temporarily housed in all AMCs. Nevertheless, as can be seen in **Case 1**, the person in question was not the registered keeper, yet, he could still take away the dog because the AMC could not scan its microchip successfully.

5.30 With respect to the arrangements for reclaiming un-microchipped dogs, we are of the view that AFCD should consider requiring the person who comes forward to reclaim a dog to provide more information to confirm his/her keeper status, such as lost reports, receipt of buying the dog, photos of the dog or photos with the dog at home, etc. Such information can prevent dogs from being mistakenly taken away.

(4) Handle Properly Cases of Change of Licensee

5.31 **Cases 1 and 2** in Chapter 4 reveal inadequacies in the handling and confirmation of change of dog licensee (i.e. the registered dog keeper) by AFCD staff.

5.32 In our opinion, the dog licensing and registration system can not only help confirm whether a dog has been vaccinated, but also substantiate the legal obligations of the dog keeper concerned. As such, in cases of a change of licensee, both the new and original keepers have the duty to notify AFCD promptly, and AFCD should handle related applications prudently, step up staff training to remind staff to verify the information of both keepers carefully and obtain the written consent of both parties in order to protect the interests of both sides and establish their responsibilities. This is an important step in safeguarding the welfare of the dog in question.

(IV) NEED TO IMPROVE EFFORTS IN REDUCING DOGS SURRENDERED BY DOG KEEPERS

5.33 Although AFCD has been educating the public and advising them against abandoning their pets, as many as 38% of the dogs it received in 2020 were surrendered by their keepers (see **Figure 10** under **para. 3.40**). Surrendering dogs to AFCD because of inability to keep them would not be deemed as abandonment (see **para. 3.44**). Yet, this practice of accepting dogs surrendered by their keepers may provide opportunities for some dog keepers to evade legal obligations.

5.34 AFCD encourages pet keepers to honour their promise to keep their pets for life, and is considering to stop receiving animals (including dogs) surrendered by their keepers without good reasons (see **para. 3.47**). We have no objection to this arrangement. Nevertheless, we are of the opinion that before implementing such an arrangement, AFCD must first strengthen the regulation of dog keepers' obligations under the law, strictly require dog keepers to license their dogs and provide accurate

contact information to the Department, and take follow-up actions against dog keepers in breach of the law (such as abandoning their dogs). Otherwise, more dogs might just be abandoned on the street once the arrangement comes into effect.

5.35 On the other hand, we notice that when old or sick dogs surrendered by their keepers are eventually euthanised by AFCD, their keepers would not be charged any related fees (see **para. 3.39**). In other words, dog keepers can surrender their dogs at no cost. AFCD explained that the practice is intended to prevent keepers from abandoning their dogs because of financial difficulties or lack of proper disposal channels. However, we consider more stringent regulation (see **para. 5.34**) and stricter enforcement necessary in the long run in order to dissuade dog keepers from wilfully abandoning their old or sick dogs on the street. In addition to stepping up publicity, AFCD should consider other measures to prompt those dog keepers intending to give up their dogs to think twice and consider thoroughly whether it is their only option. For instance, AFCD can require that dog keepers must make an appointment in advance for going through the formalities of surrendering a dog, draw up clear criteria for AMCs to refuse accepting a surrendered dog and explain the decision clearly to dog keepers.

(V) SHOULD STEP UP PUBLICITY ON DOG LICENCE RENEWAL AND UPDATING OF LICENSEE INFORMATION

5.36 Although AFCD has stepped up publicity and public education on responsible pet ownership and continues to remind the public to license their dogs (see **paras. 2.3 and 2.10)**, some dog keepers still do not have sufficient understanding of their legal obligations. Take **Case 7** as an example, the dog keeper did not know that he had to renew the dog licence. Nor was he aware of his legal responsibility to notify AFCD of change in contact information and change of licensee. Some AWOs pointed out that some dog keepers would even confuse vaccination with microchipping (see **para. 4.24**). We consider that AFCD should step up public education in this aspect.

RECOMMENDATIONS

5.37 Overall, we have made the following recommendations to AFCD:

(1) take appropriate and effective measures to follow up more strictly on suspected violations of law by dog owners and strengthen investigation and evidence collection; in cases where AFCD

decides not to prosecute, to consider other administrative measures (such as issuing advices or warning letters to remind dog keepers to observe the statutory requirements) and make relevant records of the cases (see **paras. 5.7 and 5.8**);

(2) conduct random dog licence inspections at public places where dogs gather, require dog keepers to license their dogs or renew the licence by a specified deadline, and take enforcement action against non-compliant dog keepers (see **paras. 5.12 and 5.18**);

(3) make use of the information in the EALES to send notifications to dog keepers whose dog licence has expired or is about to expire, requiring them to renew the dog licence by the specified deadline. The notification should state outright the legal consequences of non-compliance. AFCD can also consider revising the dog licence application form to clearly inform applicants that their contact information would be used for the purpose of sending licence renewal notifications (see **para. 5.17**);

(4) require dog licence applicants to make a written declaration at the time of licence renewal applications (including applications submitted via private veterinary clinics) on the veracity of their contact information, and let them understand the legal consequences of making false declaration (see **para. 5.22**);

(5) formulate guidelines to require organisations and veterinary clinics that assist in dog licence applications to submit the applications to AFCD within a specific a time frame after microchipping and vaccinating a dog; start as soon as possible the development of an electronic platform that allows veterinary clinics to submit dog licence applications (see **paras. 3.12 and 5.25**); for licence applications submitted via private veterinary clinics, consider notifying the dog keepers directly of licence issuance by electronic means (see **para. 5.26**);

(6) in the long run consider permitting members of the public to submit electronically applications for changing dog keeper contact information and change of licensee (see **para. 5.22**);

(7) strengthen its current communication and liaison mechanism with AWOs, consider allowing them to provide information about the dogs they have caught to AFCD by electronic communication so as to facilitate immediate follow-up by the Department (see **para. 5.28**);

(8) with respect to the arrangements for reclaiming un-microchipped dogs, consider requiring the person who comes forward to reclaim a dog to provide more information to confirm his/her keeper status (see **para. 5.30**);

(9) handle prudently applications relating to change of licensee, step up staff training and remind staff to verify carefully the information of both the new and original dog keepers and obtain the written confirmation of both parties (see **para. 5.32**);

(10) explore more measures to prompt dog keepers intending to give up their dogs to think twice and consider thoroughly whether it is their only option (see **para. 5.35**); and

(11) step up publicity and public education on dog keepers' responsibility to renew dog licence and notify AFCD of change in contact information and change of licensee in a timely manner (see **para. 5.36**).

ACKNOWLEDGEMENTS

5.38 The Ombudsman thanks AFCD for the full cooperation during our investigation. We are also grateful to organisations and members of the public for providing us with information to facilitate this direct investigation.

Office of The Ombudsman
Ref: OMB/DI/445
December 2021

Annex

Dog Licence Sample

Serial No. D

香港特別行政區政府漁農自然護理署
AGRICULTURE, FISHERIES & CONSERVATION DEPARTMENT
The Government of the Hong Kong Special Administrative Region
狗隻牌照
（由政府獲授權注射員進行狂犬病預防注射）
(根據香港法例第 421 章狂犬病規例第 IV 部)
DOG LICENCE
(Anti-rabies Immunization performed by Government Inoculator)
(According to RABIES REGULATION PART IV, RABIES ORDINANCE CAP. 421)

狗隻相片
(Photo of your dog)

注射地點
Inoculation Centre ____________

狂犬病疫苗
Rabies Vaccine

牌子
Brand ____________

產品編號
Batch Number ____________

晶片編號
Microchip Code No. ____________

牌照類別
Licence Category ____________

預防狂犬病疫苗注射日期
Date of Vaccination against rabies ____________

牌照／狂犬病疫苗有效期至
Licence/Vaccination against Rabies Valid until ____________

畜養人
Keeper

謹此證明狗隻畜養人 ____________ 先生／小姐／太太／女士的以下狗隻已接受預防狂犬病疫苗注射及獲發牌照。
This is to certify that the undermentioned dog has now been inoculated against rabies and licensed. The keeper of the dog is Mr/Miss/Mrs/Ms ____________

身分證號碼
Identity Card No. ____________

聯絡電話
Telephone No. ____________

地址
Address ____________

Sample

狗隻識別
Description of dog:

品種
Breed ____________

毛色
Colour ____________

狗隻名稱
Name of dog ____________

年齡
Age ____________

性別：雄／雌／絕育
Sex : Male/Female/Neuter

茲收到狗隻牌照費捌拾圓正
Received Dog Licence Fee $80.00

漁農自然護理署署長 ____________ 代行
for Director of Agriculture, Fisheries & Conservation

正　本：白色，交予畜養人　　Original : White Paper—to be handed to keeper
副　本：黃色，交回動物管理中心　　Duplicate : Yellow Paper—to Animal Management Centre

註：
1. 繳付牌照費為發給本牌照的先決條件。
2. 本牌照須經獲授權政府人員填寫及蓋章，方為有效。
3. ***如轉換畜養人或畜養人的地址或電話號碼有變，請填寫背頁下方表格，寄回本署。***
4. 請參閱背頁資料。

____
部門蓋印 Department Chop

Note:
1. The grant of this licence is subject to the payment of licence fee.
2. This licence is not valid until it has been completed and endorsed by an authorized Government Staff.
3. ***In case of change of keeper/change of address and telephone of keeper, please complete the slip at the lower portion on the reverse and mail to AFCD.***
4. Please also see information overleaf.

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Dog Licence Sample



歡迎瀏覽本署網頁 ：
Welcome to visit our web-site:

http://www.afcd.gov.hk/

個人資料收集聲明

1. 政府可能將部份資料轉交其他已獲法律授權可以接收資料的人士。
2. 根據《個人資料(私隱)條例》，你有權索取以及更正個人資料。
3. 如欲查閱個人資料，請以書面提出，寄往下述地址；
   如欲更改個人資料，可填妥以下的表格，寄回**九龍長沙灣道 303 號長沙灣政府合署 5 樓漁農自然護理署 動物管理科。如有查詢，請致電 1823 電話中心 (電話：1823)。**

Personal Information Collection Statement

1. The Government may give some of the information to other parties authorized by law to receive it.
2. Under the Personal Data (Privacy) Ordinance, you have a right of access and correction with respect to personal data.
3. Request for personal data access should be addressed in writing to the address below;
   Request for personal data amendment should be addressed to **Agriculture, Fisheries and Conservation Department, Animal Management Division, 5/F Cheung Sha Wan Government Offices, 303 Cheung Sha Wan Road, Kowloon** by completing the form at the bottom of this page. **For enquiry, please contact 1823 Call Centre (Tel.: 1823).**

養狗之道 RESPONSIBLE PET OWNERSHIP

1. 本牌照不得轉讓。
   This licence is not transferable.
2. 所有狗隻滿 5 個月大或以上，必須植入識別晶片、注射疫苗預防狂犬病以及領取牌照。其後每隔 3 年必須再行注射疫苗以及續牌。
   All dogs aged 5 months or older must be microchipped, vaccinated against rabies and licensed. Vaccination and re-licensing must be repeated every 3 years.
3. 倘若遺失狗隻，為了盡快尋回，應從速向就近的動物管理中心(電話 1823)、愛護動物協會及警署報案，並提供畜養人的身分證號碼、狗隻晶片編號等。
   For the speedy reunion of your lost pets, you should promptly report (with ID number of the keeper, micro-chip number of dog, etc) to the nearest Animal Management Centre (Tel. 1823), SPCA and Police.
4. 切勿遺棄狗隻，亦不應讓狗隻隨處遊蕩。
   Never abandon your animals nor allow them to stray or wander.
5. 無論何時，均應以適當方法管束狗隻。體重 20 公斤或以上的大型狗隻如在公眾地方(郊野公園範圍除外)，便須用狗帶牽引，且狗帶長度不得超過 2 米。
   Dogs should be under proper control at all times. Large dogs (weighing 20kg or more) must be held on a leash not longer than 2 meters when in public places other than Country Parks.
6. 勿讓狗隻騷擾他人。
   Avoid nuisances.
7. 充分照顧狗隻。
   Provide proper care.

倘轉換畜養人或畜養人的地址或電話號碼有變，須填寫本表格。請在適當位置填寫，並於 5 天內將整個牌照寄回上述地址。本署將於 14 天內批註而不另行收費。
To be completed by the keeper if there is any change of ownership or change of address or telephone. Please fill out the appropriate portion and mail the whole licence to the address shown above within 5 days. An endorsement for amendment to dog licence will be issued within 14 days at no additional charge.
請於適當的方格內加上✓號 Please tick ☑ as appropriate

☐ 更改地址或電話號碼 (請填妥欄 1) Change of address/telephone (Complete column 1)	☐ 轉換畜養人 (請填妥欄 1 及 2 並附上新畜養人之身分證副本) Change of keeper (Complete column 1&2; new keeper's HKIC copy is required)
1	2
舊畜養人姓名________________先生／小姐／太太／女士* Name of Old Keeper Mr/Miss/Mrs/Ms*	新畜養人姓名________________先生／小姐／太太／女士* Name of New Keeper Mr/Miss/Mrs/Ms*
身分證號碼 Identity Card No.	身分證號碼 Identity Card No.
電話 Tel No. 住所(Home) 手提(Cell)	電話 Tel No. 住所(Home) 手提(Cell)
地址 Address	地址 Address
舊畜養人簽署 Signature of Old Keeper	新畜養人簽署 Signature of New Keeper
日期 Date	日期 Date

AF 35C (Rev. 4/2021) *請刪去不適用者 *Delete as inappropriate